

Contents.

S. 21:1

1.	The Assam Debt Conciliation Act, 1936. X9(J):6:(2261) G6	pp. 1- 6.
2.	The Bihar Debt Conciliation Bill, 1937. X9(J):6:(2253) G	pp. 7- 32.
3.	Preliminary Report of the Bengal Board of Economic Enquiry on rural indebtedness: 1935. 2223	pp. 33- 62.
✓4.	Report of the Select Committee on the Bengal Relief of Indebtedness Bill, 1935. X9(J):6:(2262) G5	pp. 63- 82.
5.	The Bengal Tenancy (Amendment) Bill, 1937. X9(J):(2262) G	pp. 83- 83.
6.	The Bengal Money-Lenders Bill, 1938. X63:(2262) G	pp. 89-100.
✓7.	The Bengal Money-lenders Bill, (1938) 1939. The Report of the Select Committee with the Bill, embodying amendments recommended by them, annexed. 1939. X63:(2262) N34E G9	pp.101-124.
✓8.	Report of the Select Committee on the Bengal Money-Lenders Bill, 1938. X63:(2262) N38E G8	pp.125-146.
9.	Bill to prevent the excessive sub-division of agricultural land and to promote the consolida- tion of such land. 1927. (Bombay) F7	pp.147-153.
10.	A Bill to provide for the temporary relief of small holders in the Province of Bombay. 1938. X9(J):6:(2231) G9	pp.159-161.
11.	Review on the working of the Debt Conciliation Boards in the Central Provinces and Berar, 1936. X9(J):6:(2211) G6	pp.162-165.
12.	Liquidation of Industrial Workers' Debt Act, 1936, C.P. & Berar. X:90R Q:(2211) G6	pp.166-168.
13.	Review on the work done by the Debt Conciliation Board, Malaghat, 1937. X9(J):6:(2219) G	p.169.
14.	Review on the working of the Debt Conciliation Boards, C.P. & Berar, 1936. X9(J):6:(2271) G6	pp.170-171.
✓15.	Report on Agricultural Indebtedness, Madras. By W.R.S. Sathyanathan. 1935. X9(J):6:(224) N35E G5	pp.172-203.
16.	Agricultural indebtedness - Report of the Special Officer - placed at the disposal of the Press. 1935 X9(J):6:(221) G5	pp.209-233.
17.	An Act to regulate the rate of interest and the transfer of land in the Ganjam, Vizagapatam and Godavari Agency Tracts. 1917. X9(J):(220 E)	pp.234-235.
18.	The Crissa Money-lenders Bill, 1938. X63:(2254) G7	pp.236-245.
✓19.	Report of the Select Committee on the N.W.F. Province Agricultururist Debtors' Relief Bill, 1938. X9(J):6:(2235) N38E G8	pp.246-260.
20.	The Punjab Land Alienation Act (Being a reprint of the articles which appeared in the "Servant of India" Oct.1926-May 1927). By P.Kodanda Rao. X9(J):(2236) E7	pp.261-272.
21.	Rules under the Punjab Relief of Indebtedness Act, 1934. X9(J):6:(2236) G7	pp.273-278.
✓22.	Report of the Select Committee on the Punjab Relief of Indebtedness Bill, 1934. X9(J):6:(2240) N34E G4	pp.279-292.
✓23.	Report of the Select Committee on the Punjab Debtors' Protection (Amendment) Bill, 1938. X9(J):6:(2240) N34E G4	pp.293-310.

24. Report on the Rural State Indebtedness Bill, 1936. (Marathi) X9(J):6:(223154) G6 pp.311-362.
25. Agricultural Debt Relinquishment and Amalgamation Bill, 1937. (Marathi) X9(J):6:(228154) G5 pp.363-370.
26. Note showing the position in regard to debts incurred by Thavnagar Indenture since the wholesale relinquishment of Agricultural Indebtedness was carried out, 1937. X9(J):6:(228154) G5 pp.371-388.
27. Report: Administration of the Agricultural Market Act for 1544 Fasli, 1937. (Hyderabad) X9(J):51:2238 G5 pp.384-393.
28. Communique regarding the Moneylenders' Regulation, 1937. (Hyderabad.) X9(J):6:(2245) G4 pp.389-395.
29. Communique regarding Conciliation Regulation of 1937, 1938. (Hyderabad.) X9(J):6:(2225) G3 pp.396-399.
30. Report: Committee constituted in Government Order, dated 24-25th October 1932 for examining the existing conditions and prospects of tenants in Inam and Jodi Villages, Mysore State, 1933. X9(J):6:(2225) G3 pp.400-414.
31. Report of the Agriculturists' Relief Committee in Mysore, 1935. X9(J):6:(2224).N358 G5 pp.415-433.
32. Select Committee Report on the Cochin Debt Conciliation Bill, 1936. X9(J):6:(2223).N360 G6 pp.439-455.
33. The Cochin Tenancy and Kudivirippu Bill. X9(J):6:(2223) G5 pp.456-460.
34. The Travancore Debt Relief Bill, 1940. X9(J):6:(2223) 140 pp.461-469.
35. The Travancore Debt Relief Act, 1940. X9(J):6:(2223) 140 pp.470-477.
36. The Travancore Agriculturists' Relief Regulation, 1937. X9(J):6:(2223) G5 pp.478-490.
37. Letter from Mr. G. Wilson re: the article in the Servant of India of 1st Feb. 1934, entitled "Liquidation of Industrial Debts." X:9066(2435) G4 pp.491-498.
38. Report: Committee appointed to consider the question of Moneylenders in the Straits Settlements, 1932. X63.435.N34 G2 pp.494-496.
39. A Bill to amend an Ordinance to make provision for the regulation of Money Lending (Straits Settlements, 1934. X63:(2435) G4 pp.497-510.
40. Consolidation of the Canadian Farm Loan Act, 1936. X9(J):6:(274) G5 pp.511-517.
41. Statistical Information regarding the Farmers' Creditors Arrangement Act, Canada, 1936. X9(J):6:(27) G6 pp.518-522.

AS
THE ASSAM

[Published

AN ACC
SETTI
BOARD
TURIS

ambis.

WHERE
turists fr
between-ti

And w
Governor
section 8

has been o

It is her

ort title,
out and
announcements.

1 (1) '11

Conciliatio

(2) It e;

(3) It e;

such date

notification

2. In th

nant in the

(a) "

SERVANTS OF INDIA SOCIETY'S LIBRARY,
POONA 4.

FOR INTERNAL CIRCULATION

To be returned on or before the last date stamped below

7 JAN 1967

7 FEB 1967

4 MAR 1967

25 JUN 1971

5 JUL 1975

15 JUL 1991

6: (2261)

96

7391

and the growing of fruits, vegetables
and the like ;

(b) "Board" means a Debt Conciliation
Board established under sub-section
(1) of section 8 ;

(c) "Creditor" means a person to whom a
debt is owing and includes a co-oper-
ative society registered under the Co-
operative Societies' Act (II of 1912) ;

(d) "Debt" includes all liabilities in cash
or kind, secured or unsecured,
payable under a decree or order of a
Civil Court or otherwise, whether
due or not due; but shall not include

Price—Indian : 1 anna.]

[English : 1d.

373-371

पुस्तक

ASSAM ACT X OF 1936.

THE ASSAM DEBT CONCILIATION ACT, 1936.

[Published in the Assam Gazette of the 6th January 1937.]

AN ACT TO MAKE PROVISION FOR THE
SETTING UP OF DEBT CONCILIATION
BOARDS TO RELIEVE AGRICUL-
TURISTS FROM INDEBTEDNESS.

WHEREAS it is expedient to relieve agricul-
turists from indebtedness by amicable settlement
between them and their creditors ;

And whereas the previous sanction of the
Governor General required by sub-section (3) of
section 80A of the Government of India Act,
has been obtained to the passing of this Act ;

It is hereby enacted as follows :—

Short title,
extent and
commencement.

1. (1) This Act may be called the Assam Debt
Conciliation Act, 1936.

(2) It extends to the whole of Assam.

(3) It shall come into force in any area on
such date as the Local Government may, by
notification, direct.

2. In this Act, unless there is anything repug-
nant in the subject or context,

(a) "Agriculture" includes horticulture,
dairy farming and sericulture, and
the use of land for any purpose of
husbandry inclusive of keeping or
breeding of livestock, poultry or bees
and the growing of fruits, vegetables
and the like ;

(b) "Board" means a Debt Conciliation
Board established under sub-section
(1) of section 3 ;

(c) "Creditor" means a person to whom a
debt is owing and includes a co-opera-
tive society registered under the Co-
operative Societies' Act (II of 1912) ;

(d) "Debt" includes all liabilities in cash
or kind, secured or unsecured,
payable under a decree or order of a
Civil Court or otherwise, whether
due or not due, but shall not include

1
X9(1):6.(2261)
G6
17391

303-277
17391

Price—Indian : 1 anna.]

[English : 1d.

rent not due, arrears of wages, land revenue, or anything recoverable as an arrear of land revenue, or any claim for the recovery of which a suit or application is barred by limitation,

- (e) "Debtor" means a person who owes a debt and who earns his livelihood mainly by agriculture;
- (f) "Prescribed" means prescribed by rules made under this Act;
- (g) "Deputy Commissioner" means the Deputy Commissioner of a district or any other officer appointed by the Local Government to discharge any of the functions of a Deputy Commissioner under this Act.

Establishment
of Debt Con-
ciliation Board.

3. (1) The Local Government may establish a Debt Conciliation Board for any district or part of a district. Such Board shall consist of three or more members not exceeding seven, including the Chairman, to be appointed by the Local Government which may, for reasons to be recorded in writing, cancel any appointment or dissolve any Board.

(2) The Chairman and every other member of a Board so established shall be appointed for a term not exceeding three years. Such Chairman or member shall, on the expiration of the period for which he has been appointed, be eligible for re-appointment.

(3) A Board shall have such quorum as may be prescribed.

(4) Where the members of a Board are unable to agree, the opinion of the majority shall prevail. Where the Board is equally divided the Chairman shall have a second or casting vote.

Application for
settlement be-
tween debtor
and his creditor.

4. (1) A debtor or any of his creditors may apply to the Board appointed for the area in which the debtor ordinarily resides, to effect a settlement between the debtor and his creditors.

Provided that no application shall lie if the debtor's debts be less than Rs. 50 or more than Rs. 5,000.

(2) Where applications have been made by the debtor and any of his creditors, the applications made by the creditors shall be merged in the application made by the debtor.

(3) If applications are made to more than one Board in respect of the debts of the same debtor such applications shall, subject to rules prescribed, be transferred to and dealt with by one Board.

(4) The Local Government may, at any stage of a proceeding, transfer the proceeding from one Board to another, and the Board to which it is transferred shall have jurisdiction to deal with it.

Verification of application, - 5. Every application to a Board under section 4 shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints. Act V of 1908.

Statement of debts to be included in application, - 6. (1) An application made by a debtor under sub-section (1) of section 4 shall contain a statement of debts, in the prescribed form which shall include the following :-

- (a) the names and addresses of his creditors, the total amount claimed by each creditor to be owing to him in respect of each debt, so far as is known to the debtor, and a note whether each such claim is admitted by the debtor ;
- (b) the history of each such debt, so far as is known to the debtor, with particulars of the original principal and the rate of interest chargeable ;
- (c) Particulars of any other liability which does not constitute a debt under this Act ;
- (d) particulars of the debtor's property, both movable and immovable (including claims due to him), a specification of its value and of the places where it may be found, and details of any attachment, mortgage, lien or charge subsisting thereon ;

- (e) particulars of any income from sources other than agriculture ;
- (f) a declaration that all liabilities, debts and properties have been disclosed in the statement, and that the debtor is unable to pay his debts.

(2) An application made by a creditor under sub-section (1) of section 4 shall contain a statement of debts, in the prescribed form, which shall include the following :—

- (a) the total amount of every debt claimed by him to be owing to him by the debtor ;
- (b) the history of each such debt with particulars of the original principal, the rate of interest chargeable, and payments made either as interest or principal ;
- (c) particulars, so far as they are known to the creditor, of the debtor's property, as in clause (d) of sub-section (1) ;
- (d) particulars, so far as they are known to the creditor, of any income of the debtor from sources other than agriculture ; and
- (e) a declaration that agriculture is the main source of livelihood of the debtor.

(3) The Board may return, for amendment, an application, if it is not complete and in proper form.

Procedure on application.

7. (1) On receipt of an application under section 4 the Board shall examine it, and if it considers that it has jurisdiction to entertain it, it shall pass an order fixing a date and place for hearing the application :

Provided that the Board may at any stage whether after examining the application on presentation or after submission of the statement of debts under section 8, dismiss the application for want of jurisdiction, or if for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and his creditors.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor and creditors.

Period of limitation for hearing application.

(3)(a) If on receipt of an application under section 4, the Board dismisses it on the ground of want of jurisdiction, the applicant may, within 30 days from the date of service of notice under sub-section (2) make an objection in writing to the Board against such dismissal.

(b) On receipt of an objection under clause (a) of sub-section (3) the Board shall make such order thereon as it thinks fit.

Notice calling upon creditors to submit statement of debts.

8. (1) If after examining the debtor, it is, in the opinion of the Board, desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be signed and verified in the manner prescribed in the Code of Civil Procedure, 1908, for signing and verifying plaints, and shall be submitted to the Board in writing within 30 days from the date of service or publication of the notice as the case may be:

Act V of 1908.

Provided that if the Board is satisfied that any creditor for good and sufficient cause was unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed to him.

Effect of non-compliance.

(2) Every debt of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged:

Provided that, if a creditor proves to the satisfaction of the Board that the notice was not served on him and that he had no knowledge of its publication, the Board may revive the debt on application made within 30 days of the date on which he first had knowledge of the order of discharge:

Provided also, that in any area in which a Board has been dissolved, the Civil Court may entertain an application for revival of the debt on the same conditions.

Board's decision as to jurisdiction final.

(3) If any question as to the jurisdiction of a Board arises after submission of the statement of debts made under sub-section (1) the Board shall not pass any order without hearing the debtor and creditor. The decision of the Board with regard to jurisdiction under section 7 or section 8 shall be final and shall not be questioned in any Civil Court.

Procedure
submission
statement
debts.

on
of

9.(1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 8 shall furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents, including entries in books of account, on which he relies to support his claims, together with a true copy of every such document.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document, which is in the possession, or under the control, of the creditor, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him.

Board to endea-
vour amicable
settlement.

10. The Board shall then call upon the debtor and each creditor, respectively, to explain his case regarding each debt, and shall endeavour to induce them to arrive at an amicable settlement.

Power of Board
to require
attendance of
persons and
production of
documents and
to receive
evidence.

11.(1) Subject to any rules prescribed, the Board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a Civil Court by the Code of Civil Procedure, 1908.

Act V of 1908

(2) Any person present may be required by a Board to give evidence or to produce any document then and there in his possession or power.

Agreement of
amicable settle-
ment, its regis-
tration and
effect.

12. (1) If the creditors, to whom not less than forty per cent. of the total amount of the debtor's subsisting debts are owing, come to an amicable settlement with the debtor, such settlement shall, forthwith be reduced to writing in the form of an agreement recording the immovable properties of the debtor with particulars of any mortgage, lien or charge subsisting thereon, and the amounts payable to such creditors, and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the parties :

Provided that, when a Co-operative Society is one of such creditors, no settlement, in so far as it affects the debts owing to such Society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies.

(2) An agreement thus made shall, within 14 days from the date of its making, be registered under the Indian Registration Act, 1908, by the Chairman of the Board, in such manner as may be prescribed, and it shall then take effect as if it were a decree of the Civil Court.

XVI of 1908.

(3) For the purpose of registration of an agreement under sub-section (2), the Chairman of the Board shall be deemed to be an officer of Government empowered to execute such an agreement within the meaning of section 88 of the Indian Registration Act, 1908.

XVI of 1908.

Existing mortgage, lien or charge to subsist.

(4) Where an agreement registered under sub-section (2) relates to a debt which is secured by a mortgage, lien or charge on any immovable property of the debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with the terms of the agreement until such amount has been paid or the property has been sold for the satisfaction of such debt.

Recovery of sums due under agreement and distribution thereof.

13. (1) If a debtor defaults in paying any amount due in accordance with the terms of an agreement registered under sub-section (2) of section 12, such amount shall be recoverable as an arrear of land revenue on application to the Deputy Commissioner made by the creditor within 90 days from the date of default.

(2) Where the Deputy Commissioner has under sub-section (1) recovered any amount which was payable in accordance with the terms of the agreement, he shall proceed to make payments as follows :—

(a) he shall, in the first instance, apply the sum realised from the sale of any portion of the immovable property referred to in section 12(4) to the payment of any amount payable under the agreement on account of (i) rent in respect of the property sold; (ii) any debt which is secured by a mortgage, lien or charge on such property in order of priority determined in accordance with the provisions of the Transfer of Property

Act, 1882, and, if the said sum is insufficient to meet such payments, the amounts which have remained unpaid shall rank equally with unsecured debt;

(b) if there is a surplus after the payments have been made under clause (a), the Deputy Commissioner shall apply to the payment of any other amounts payable under the agreement the sum of the surplus and of the proceeds realised from the sale of such portion of any other property of the debtor as will, together with the surplus, be sufficient to meet the payment of such amounts;

(c) if the sum of the surplus and sale proceeds referred to in clause (b) is insufficient to meet the payment of other amounts referred to therein, such other amounts and any amount payable on account of any unsecured debt for the recovery of which a decree has been passed by a Civil Court and of which details are given in the agreement shall rank equally between themselves for the purposes of payment;

(d) any further surplus remaining after the payments have been made under clauses (a), (b) and (c) shall be paid by the Deputy Commissioner to the debtor.

(3) Where the Deputy Commissioner fails to recover as an arrear of land revenue any part of such amount, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

(4) Where an agreement ceases to subsist, any amount, which was payable under such agreement, but has not been paid, shall be recoverable as if a decree of a Civil Court had then been passed for its payment.

Power of Board
to dismiss appli-
cation.

14. If no amicable settlement is arrived at under sub-section (1) of section 12, the Board shall dismiss the application.

Grant of certificate by Board in respect of certain debts.

15. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor, in such form as may be prescribed, a certificate including the particulars of the fair offer, in respect of the debt owed by him to such creditor.

Effect of refusal to agree to a fair offer.

(2) Where any creditor sues in any Civil Court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the Court, notwithstanding the provisions of any law for the time being in force, may, if it thinks fit, refuse to grant a decree for any sum in excess of the sum specified in the certificate as a fair offer, and shall not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at six per cent. per annum on the principal amount due on the date of such certificate.

(3) Where after the registration of an agreement under sub-section (2) of section 12 any creditor sues for the recovery of a debt in respect of which no settlement has been made though it was included in the application under section 6 or in the statement of debts under section 8 or any creditor sues for the recovery of a debt incurred after the date of such registration, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed until all amounts recorded as payable under such agreement have been paid or such agreement has ceased to subsist :

Act V of 1908.

Provided that the provision in this sub-section shall not apply to the execution of a rent decree.

Bar of civil suit or proceeding.

16. No Civil Court shall entertain—

- (a) any suit or proceeding in respect of—
 - (i) any matter pending before a Board, or
 - (ii) the validity of any procedure or the legality of any agreement made under this Act, or

- (e) prescribing the form of certificate to be granted under sub-section (2) of section 13 or sub-section (1) of section 15; and such other forms as may be required for the purpose of carrying into effect the provisions of this Act; and
- (f) providing for the representation of minors, lunatics and other disabled persons;
- (k) and generally for the purpose of carrying into effect the provisions of this Act.

General provisions regarding rules.

25. (1) All rules shall be subject to the condition of previous publication.

(2) In making any rule the Local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach has been persisted in.

X9(J):6:(2253)

G)

2:

**THE BIHAR DEBT CONCILIATION
BILL, 1937.**

**A
BILL**

**TO GIVE RELIEF TO CERTAIN CLASSES OF
DEBTORS IN THE PROVINCE OF BIHAR.**

WHEREAS it is expedient to give relief to certain classes of debtors in the province of Bihar;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent
and commencement.

1. (1) This Act may be called the Bihar Debt Conciliation Act, 1937.

(2) It extends to the whole of the province of Bihar.

(3) It shall come into force on such date as the Governor may, by notification, appoint and different dates may be so appointed for different provisions.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context:—

(a) "amount payable under an award" means an amount included under clause (d) of subsection (3) of section 14 in an award as payable by a-debtor in respect of any debt or any part of such amount which remains unpaid together with any interest on such amount or part thereof which is due under the award;

- (b) "award" means an award as made by a Board under ~~sub-section (2) of section 14~~ of sub-section (6) of section 28;
- (c) "Board" means a Debt Conciliation Board established under sub-section (1) of section 3;
- (d) "Certificate Officer" means a Certificate Officer as defined in the Bihar and Orissa Public Demands Recovery Act, 1914; B. & O. Act
IV of 1914.
- (e) "Chairman" means the Chairman of a Board;
- (f) "Collector" includes any other officer appointed by the Provincial Government to discharge any of the functions of a Collector under this Act;
- (g) "creditor" means a person to whom a debt is owing and includes a co-operative society; ✓
- (h) "debt" includes all liabilities owing to a creditor, in cash or in kind, secured or unsecured, payable under a decree or order of a civil court or otherwise; ✓
- (i) "agricultural debtor" means a person who earns his livelihood mainly by agriculture, who is a tenant or a proprietor and whose debts exceed one hundred and fifty rupees, or such lower amount, not being less than fifty rupees as the Provincial Government may, by notification, prescribe for any particular area; ✓
- (j) "interest" means rate of interest and includes the return to be made over and above what

was actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise;

- (k) "prescribed" means prescribed by rules made under this Act;
- (l) "principal" means, in relation to a loan, the amount actually lent to a debtor; and
- (m) the expressions, "proprietor", "rent" and "tenant" shall have—
- (i) in Bihar, the meanings assigned to them in the Bihar Tenancy Act, 1885, VIII of 1885.
- (ii) in Chota Nagpur, the meanings assigned to them in the Chota Nagpur Tenancy Act, 1908, and Ben. Act VI of 1908.
- (iii) in the Santal Parganas, the meanings assigned to them in the Santal Parganas Settlement Regulation, 1872. III of 1872.

CHAPTER II.

ESTABLISHMENT OF DEBT CONCILIATION BOARDS AND SETTLEMENT OF DEBTS OF AGRICULTURAL DEBTORS.

Establishment
of Debt
Conciliation
Boards.

3. (1) The Governor may by notification, establish for any district or part of a district a Debt Conciliation Board which shall consist of a Chairman and two members nominated by the Chairman out of a panel of members not exceeding fifteen.

(2) The Chairman and the panel of members shall be appointed by the Provincial Government which may, for

reasons to be recorded in writing, cancel any appointment and dissolve any Board.

(3) The Chairman and the panel of members of a Board so established shall be appointed for a term not exceeding one year. Any such Chairman or member may, on the expiration of the period for which he has been appointed be again appointed (from time to time) for a further term not exceeding one year.

(4) If the Chairman and the members of a Board are unable to agree, the opinion of the majority shall prevail.

(5) If at any time the Chairman of a Board is temporarily prevented from discharging his duties, he may nominate any member thereof to act for him during his temporary absence and such member shall, while so acting, have the same powers as the Chairman.

Application for settlement between the debtor and his creditors.

4. (1) An agricultural debtor or any of his creditors may apply to the Chairman of the Board appointed for the area in which any holding, land or village of the debtor, or any part thereof, is situate, to effect a settlement between the debtor and his creditor:

Provided that no application shall be made if the debtor's debts exceed five thousand rupees or such larger amount as the Governor may, by notification determine for a particular area or for the whole Province.

(2) No agricultural debtor or creditor shall simultaneously make more than one application, and where applications have been made by the debtor and any of his creditors, the applications made by the creditors shall be merged in the application made by the debtor.

Verification of application.

5. Every application to the Chairman shall be in writing and shall be

signed and verified in the manner prescribed by the Code of Civil Procedure, V of 1908, 1908 for signing and verifying plaints.

Particulars to be stated in applications.

6. (1) Every application presented by an agricultural debtor to the Chairman shall contain the following particulars, namely:—

- (a) a statement that the debtor is unable to pay his debts;
- (b) the place where he resides;
- (c) the amount and particulars of all claims against him together with the names and residences of his creditors so far as they are known to, or can, by the exercise of reasonable care and diligence be ascertained by him; and
- (d) the amount and particulars of all his property, including claims due to him, together with a specification of the value of such property not consisting of money, and the place or places at which any such property is to be found.

(2) Every application presented by a creditor shall contain the following particulars, namely:—

- (a) the place where the debtor resides; and
- (b) the amount and particulars of his claim against such debtor.

Procedure on application.

7. (1) On receipt of an application under section 4, the Chairman shall call on the applicant to appear before him and shall after making such enquiry as he thinks fit, pass an order—

- (a) dismissing the application, for reasons to be stated in writing, or

(b) admitting the application and fixing a date and place for the hearing of the application by the Board.

(2) When the Chairman has passed an order dismissing or admitting an application under sub-section (1), an agricultural debtor or his creditor may, within thirty days from the date of the said order of dismissal or admission, make an objection in writing to the Chairman against the said order.

of

(3) The Board shall hear any objection made under sub-section (2) and shall pass such order thereon as it thinks fit, and such order shall be final.

(4) If the Board, by its order under sub-section (3), admits an application which the Chairman had rejected under sub-section (1), it shall pass an order fixing a date and place for hearing the application.

(5) Notice of an order under sub-section (1) or sub-section (4) shall be sent by registered post to the debtor or creditor, as the case may be.

(6) The Board may, at any time, dismiss an application if, for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and his creditor.

(7) If no objection is made under sub-section (2) or if an objection is made and decided under sub-section (4), the jurisdiction of the Chairman or of the Board shall not be questioned in any civil court.

Notice calling upon debtors to submit statement of debts.

8. (1) If after examining the agricultural debtor, it is in the opinion of the Board desirable to attempt to effect

a settlement between him and his creditors, a notice shall be issued and served or published in the prescribed manner, calling upon every creditor of the agricultural debtor to submit a statement of the debts owed to such creditor by the agricultural debtor. Such statement shall be submitted to the Board in writing on or before such date as the Board may fix in this behalf not being earlier than two months from the date of service or publication of the notice, as the case may be:

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed to him.

(2) Every debt of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged:

Provided that, if a creditor proves to the satisfaction of the Board or a civil court that the notice was not served on him and that he had no knowledge of its publication or that he was prevented from complying with the provisions of sub-section (1) on account of unforeseen or unavoidable difficulty or cause the Board or court may revive the debt.

Procedure on
submission of
statement of
debts.

9. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 8 shall furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents, including entries in books of account,

on which he relies to support his claims, together with a true copy of every such document :

Provided that if the Board is satisfied that any creditor was for good and sufficient cause, unable to produce such documents along with the statement, it shall require them to be produced on a date fixed for the purpose.

(2) The Board shall, after making for the purpose of identification a copy of every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him. ✓

Verification of statement and particulars of debt.

10. Every statement submitted under sub-section (1) of section 8, together with all particulars furnished along with it under sub-section (1) of section 9, shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying complaints. ✓ V of 1908.

Board to endeavour amicable settlement.

11. The Board shall call upon the agricultural debtor and each creditor, respectively, to explain his case regarding each debt and shall endeavour to induce them to arrive at an amicable settlement.

Power of Board to require attendance of persons and production of documents and to receive evidence.

12. (1) Subject to the provisions of sections 132 and 133 of the Code of Civil Procedure, 1908, and to rules made under section 38, a Board shall have power to summon any person whose V of 1908.

attendance it considers necessary either to be examined as a party or to give evidence as a witness or to produce any document for the purpose of ascertaining the antecedents of any debt or for any other purpose in connection with an enquiry under this Act.

(2) Any person present may be required by a Board to give evidence or to produce any document then and there in his possession or power.

Determination of
amounts of debts.

13. (1) If there is any doubt or dispute as to the existence or amount of any debt, the Board shall decide whether the debt exists and determine its amount :

Provided that a decree of a civil court relating to a debt shall be conclusive evidence as to the existence and amount of the debt as between the parties to the decree.

(2) Before passing an order under section 7, the Board, after considering the statements of debts submitted under section 6 and after hearing the parties and considering the evidence produced shall, in accordance with rules made under this Act, determine in respect of each debt the amount of the arrears of interest due thereon from the debtor up to the date of such determination.

(3) In determining the original principal of a debt for the purposes of proviso (ii) to clause (b) of sub-section (1) of section 14, the Board shall determine the amount of the original loan which may at any time have been included as principal.

(4) When the Board has determined under sub-section (2) the amounts of the

principal of a debt due from a debtor and of the arrears of interest due thereon, the decision of the Board in this respect shall not be questioned in any Civil Court or in any manner other than that provided in this Act.

Amicable settlement of debts.

14. (1) Subject to rules made under this Act—

(a) when any creditor agrees in respect of any debt owing to him to an amicable settlement with the debtor, the Board shall embody such settlement in writing; or

(b) when creditors to whom there is owing not less than forty per cent. of the total debt, agree to an amicable settlement with the debtor,

the Board, if it considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement is a fair offer which the creditor concerned ought reasonably to accept, may pass an order that the debt to which the offer relates shall be settled in accordance with such offer:

Provided that for the purpose of this clause an offer shall not be considered by the Board to be a fair offer—

(i) if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description, or

(ii) if it contemplates the reduction of any debt to an amount which is less than the original

(1)

principal of the debt as determined under sub-section (3) of section 13, unless creditors to whom there is owing not less than sixty per cent. of the total debt agree to the proposed reduction.

(2) The terms of any settlement of debt under sub-section (1) shall be embodied in an award to be made by the Board and shall further be reduced to writing in the form of an agreement and the said agreement shall be signed by the Board and the parties.

Explanation.—The words “total debt” mean the sum total of all debts which have been determined under section 13 or regarding the amount of which there is no doubt or dispute.

(3) An award shall be in the prescribed form and shall include the following particulars:—

- (a) a list of the immovable properties of the debtor with particulars of any mortgage, lien or charge subsisting thereon;
- (b) a list of the movable properties of the debtor on which there is any mortgage, lien or charge with particulars of such mortgage, lien or charge;
- (c) details of all debts which have been determined under section 13 or regarding the amount of which there is no doubt or dispute;
- (d) the amount to be paid to each creditor for each debt owing to him under the terms of an amicable settlement or of an order.

of the Board under ~~section 14 or~~
section 28;

(e) the manner and the order in which and the times at which the amounts referred to in clause (d) shall be paid:

Provided that the order in which such amounts shall be paid shall be in accordance with any rules made under this Act;

(f) the rate of interest, if any, payable on each amount referred to in clause (d);

(g) an order that all the properties mentioned in the list referred to in clause (a) or clause (b) except such properties as are exempt from sale shall, subject to any mortgage, lien or charge subsisting thereon, be security for the amounts payable under the award.

(4) At a place and time of which notice shall be given to the parties in the prescribed manner, the award shall be explained to the parties present and shall be signed by the Board; but the validity of an award shall not be affected by the absence of any of the parties.

(5) From the date of the signing of the award under sub-section (2) it shall, in supersession of all previous decisions of a Civil Court in respect of the debts mentioned in it, be binding on the debtor and his creditors and the successors in interest of such debtor and creditors.

(6) An agreement signed by the parties under sub-section (2) of ~~section 14~~ shall, within one month from the date of its making, be registered under the Indian

Registration Act, 1908, by the Chairman ^{XVI of} of the Board in such manner as may be ^{1908.} prescribed and it shall then take effect as if it were a decree of a civil court.

(7) For the purpose of the registration of an agreement under sub-section (6), the Chairman of the Board shall be deemed to be an officer of Government empowered to execute such agreement within the meaning of section 88 of the Indian Registration Act, 1908.

XVI of
1908.

Existing mortgage,
lien or charge to
subsist.

15. Where an agreement registered under sub-section (6) of section 14 relates to a debt which is secured by a mortgage, lien or charge on any immovable property of an agricultural debtor, such mortgage, lien or charge shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance with terms of the agreement until such amount has been paid or the property has been sold for the satisfaction of such debt.

Distribution of
sale proceeds.

16. (1) If an agricultural debtor defaults in paying any amount due in accordance with the terms of an agreement registered under sub-section (6) of section 14, such amount shall be recoverable as a public demand payable to the creditor on application made by him within ninety days from the date of default.

Provided that notwithstanding anything contained in the Bihar and Orissa Public Demands Recovery Act, 1914

B. & O. Act.
IV of 1914.

cf
/ (i) if it is necessary to bring to sale the holding of the agricultural debtor, only such portion of the holding as is sufficient to satisfy the certificate amount shall be sold,

(ii) at least one-third of such holding subject to a minimum of one acre and the dwelling house of the debtor shall be exempt from sale.

(2) Where the certificate officer has, under sub-section (1), recovered any amount which was payable in accordance with the terms of the agreement, he shall proceed to make payments as follows:—

(a) He shall first pay to the certificate holder the costs incurred by him.

(b) He shall then pay the rent due under the agreement of any holding or portion of a holding which has been sold in execution of the certificate. ✓

(c) He shall, then apply the surplus of the proceeds realised from the sale of any portion of the immovable property referred to in section 15 to the payment of any amount payable under the agreement on account of a debt which is secured by a mortgage, lien or charge on such property in order of priority determined in accordance with the provisions of the Transfer of Property Act, 1882, and, if the said sum is insufficient to meet such payments, the amounts which have remained unpaid shall rank equally with unsecured debts. IV of 1882.

(d) If there is a surplus after the payments have been made under clause (c), the certificate officer shall apply to

the payment of any other amounts payable under the agreement the sum of the surplus and of the proceeds realized from the sale of such portion of any other property of the agricultural debtor as will, together with the surplus, be sufficient to meet the payment of such amounts.

(e) If the sum of the surplus and sale proceeds referred to in clause (c) is insufficient to meet the payment of other amounts referred to therein, such other amounts and any amount payable on account of any unsecured debt for recovery of which a decree has been passed by a civil court and of which details are given in the agreement shall rank equally between themselves for the purposes of payment.

(f) Any further surplus remaining after the payments have been made under clauses (c), (d) and (e), shall be paid by the Certificate Officer to the debtor.

(4) Where the Certificate Officer fails, under sub-section (1), to recover as a public demand any part of the amount referred to therein, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

(5) Where an agreement ceases to subsist, any amount which was payable under such agreement but has not been

paid shall be recoverable as if decree of a civil court had then been passed for its payment.

Power to deposit
amount of
instalment with
the Deputy
Commissioner.

4/7.

?

17. (1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement registered under subsection (6) of section 14, or if, in any case, the agricultural debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Collector for permission to deposit such amount with him.

(2) An application made under subsection (1) shall be in writing and shall contain—

- (a) a statement of the grounds on which it has been made,
- (b) the name of the creditor to whose credit the deposit is to be entered, and
- (c) the name of the person to whom payment was last made and of the person now claiming it.

Grant of receipt
for deposit.

18. (1) If it appears to the Collector that the applicant is entitled to make the deposit under section 17, he shall receive such deposit and give a receipt therefor.

(2) The Collector shall cause a notice of such deposit to be served on every person who, he has reason to believe, claims or is entitled to it and may pay the amount thereof to any person appearing to him to be entitled to it, or may retain it pending the decision of a civil court as to the person entitled to it.

Debtor to be
deemed to have
fulfilled terms of
agreement.

19. An agricultural debtor who has made a deposit under section 17 shall be held to have fulfilled the terms of the agreement.

Bar of suits and other legal proceedings. 20. No suit or other legal proceeding shall be instituted against the Crown or any officer of the Crown in respect of any thing done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount of such deposit from recovering it from any person to whom it has been paid under section 18.

Power of Board to dismiss application. 21. If no amicable settlement is arrived at under sub-section (1) of section 14, the Board shall dismiss the application.

Grant of certificate in respect of certain debts. 22. (1) Subject to any rule made under this Act, if any creditor does not accept an offer made by the debtor which in the opinion of the Board is fair and such as the creditor ought reasonably to accept, the Board, instead of passing any other order which it is competent to pass, may grant to the debtor a certificate in the prescribed form in respect of the debt to which the offer relates, and thereafter, notwithstanding the provisions of any law for the time being in force, no Civil Court shall allow to the plaintiff, in any suit for the recovery of such debt, any costs in such suit or any interest on the debt after the date of such certificate in excess of simple interest at the rate of six per cent per annum on the principal of such debt as determined under sub-section (2) of section 13, and no decree for the recovery of such debt shall be executed until all amounts payable under an agreement signed under section 14 in respect of other debts of the debtor have been paid, or such agreement has ceased to subsist under sub-section (3) of section 16, or, if there is no award, until the expiry of such period not exceeding ten years as may be specified in the certificate.

(2) Where, after the registration of an agreement under sub-section (6) of section 14, any unsecured creditor sues for the recovery of a debt, other than a debt incurred subsequent to such agreement, in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such registration, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed until all amounts recorded as payable under such agreement have been paid or such agreement has ceased to subsist :

Provided that this sub-section shall not apply to the execution of a decree passed in a suit for the recovery of rent.

f 1908

Bar to suits and proceedings in Civil and Revenue Courts. 23. Except as provided in this Act, no Civil or Revenue Court shall entertain a suit, application or proceeding against the debtor in respect of—

(a) any debt included in an application under section 4 or in a statement under sub-section (1) of section 8, proceedings in connection with which are pending before a Board; or

(b) any debt for which any amount is payable under an award, except in accordance with the provisions of sub-section (3) of section 16.

Stay and abatement of suits and proceedings.

24. When an application under section 4 or a statement under sub-section (1) of section 8 includes any debt in respect of which a suit or other proceeding is pending before a Civil or Revenue Court, the Board shall give notice thereof to

such Court in the prescribed manner, and thereupon the suit or proceeding shall be stayed until the Board has either dismissed the application in respect of such debt or made an award thereon, and if the Board includes any part of such debt under clause (d) of sub-section (3) of section 14 in the award or the Board decides that the debt does not exist the suit or proceeding shall abate so far as it relates to such debt.

Bar to execution
of certain
decrees and cer-
tificates.

25. Notwithstanding anything contained in any law or in anything having the force of law no decree of a Civil Court or certificate under the Bihar and Orissa Public Demands Recovery Act, 1914, shall be executed—

(i) for the recovery of a debt included in an application under section 4 or in a statement under sub-section (1) of section 8, until—

(a) the application has been dismissed by the Board in respect of such debt ; or

(b) an agreement in which such debt is included has ceased to subsist under sub-section (4) of section 16 ;

(ii) except as provided in sub-section (2) of section 16, for the recovery of arrears of rent which became due from a debtor after the date of an application under section 4 in respect of his debts, unless notice of such decree or certificate has been given to the Board in the prescribed manner, and three months have elapsed since such notice was given ;

- (iii) for the recovery of a debt incurred by a debtor after the date of an application under section 4 in respect of his debts, until all the amounts payable under the award have been paid or such award has ceased to subsist under sub-section (4) of section 16.

Certain decrees
to be treated as
nullities.

26. Notwithstanding anything contained in any law or in anything having the force of law any decree of a Civil Court passed in regard to a debt after the date of an application under section 8 shall be treated as a nullity in so far as—

- (a) it is inconsistent with any order passed by a Board under sub-section (2) of section 8 regarding any debt or with any determination by the Board under section 13 of the principal and the arrears of interest of any debt included in a subsisting award ;
or
- (b) it relates to a debt the documents in respect of which being in the possession or under the control of the creditor have not been produced before the Board and marked by the Board as required by section 14 unless it is proved to the satisfaction of the Civil Court that there were sufficient reasons for non-production of the documents before the Board.

27. Notwithstanding anything contained in any enactment for the time being in force, no Court shall, before the expiration of three months after the date of the commencement of this Act, pass

a decree or order the execution of a decree against any agricultural debtor who is competent to make an application of his debts under section 4 of this Act.

Adjustment of
an insolvent
debtor's debts.

28. (1) When the Board is satisfied that the debts of a debtor are such that they cannot be reduced under the provisions of section 19 to an amount which he will be able to repay within twenty years, and that the debtor is a fit person to be given the benefit of this section, the Board may, subject to rules made under this Act and after considering all the circumstances of the debtor, by a written order declare him to be insolvent and may by such order either—

- (a) reduce his debts to such amounts as it considers that he can pay within a period, not exceeding twenty years, to be mentioned in the order, or
- (b) if, for reasons to be recorded in writing, it does not consider the reduction of his debts under clause (a) to be desirable, direct that, subject to the provision of section 29, all his property shall be sold and the proceeds shall be utilised towards the payment of his debts in such manner as may be specified in the order.

(2) The Certificate-Officer shall, on the requisition of the Board in the prescribed form, sell the property of the debtor referred to in clause (b) of subsection (1) in the manner provided in the Bihar and Orissa Public Demands Recovery Act, 1914, and the provisions

B. & O. Act
IV of 1914.

of the said Act regarding sales in execution of certificate shall, subject to the provisions of this Act, apply to such sale.

(3) When the Board reduces the debts of an insolvent under clause (a) of sub-section (1), it shall specify in the order what sum he shall pay in each year towards the settlement of the debts as so reduced and in what manner such sums shall be distributed among the creditors :

Provided that the sum to be paid in each year shall be fixed by the Board at an amount which, in its estimation, is likely, in a year of normal harvest, to leave to the insolvent as provision towards his maintenance one-half of the surplus which remains from the value of the produce of his land after paying to the landlord the current rent due for such land.

(4) When the Board directs the sale of an insolvent's property under clause (b) of sub-section (1), it shall set aside, as provision towards his maintenance, not more than one-third of the land held by him in his direct possession exclusive of the land occupied by his dwelling house :

Provided that, even if he holds less than three acres of land in his direct possession, the Board shall thus set aside not less than one acre of the land so held exclusive of the land occupied by his dwelling house :

Provided further that no portion of the immovable property of an insolvent shall be exempted under this sub-section from sale for realisation of arrears of rent.

(5) When the property of the insolvent referred to in clause (b) of sub-section (1) has been sold under sub-section (2) or when he has paid all the sums fixed by the Board under sub-section (3) the Board shall make an order of discharge and grant him a certificate of discharge in the prescribed form. Such certificate shall release the insolvent from all debts which were or might have been included in the application under section 4 :

Provided that if within five years of the order declaring the debtor insolvent any property is acquired by, devolves on, or is declared by a Civil Court or is discovered to belong to, the insolvent debtor such property shall, on application made by a creditor to the Board, be available for distribution among the creditors of the debtor, to the extent of their debts, in such manner as the Board may direct.

(6) An order passed by a Board under sub-section (1) shall be embodied in an award to be made by the Board.

Avoidance of certain transfers of debtors' property.

29. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a Board under section 4 and until the agreement registered in respect of such application has ceased to subsist, shall be voidable at the option of any creditor so defeated or delayed.

Bar of appeal or revision.

30. No appeal or application for revision shall lie against any order passed by a Board.

Power of Board to review its order.

31. A Board may, either on its own motion at any time or on the application from any person interested made within ninety days of the passing of an order, review any order passed by it and pass such order in reference thereto as it thinks fit :

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of party before Board by agent but not by legal practitioner.

32. In any proceedings before a Board any party may be permitted to appear by an agent authorized in writing, but not by a legal practitioner.

Submission of reports by Boards regarding sums due to Government.

33. Where in the course of an inquiry into an application made under section 4 a Board finds that there is any sum owing to Government on account of loans advanced under the Agriculturists Loans Act, 1884, or the Land Improvement Loans Act, 1883, or otherwise, the Board shall report this fact to the Collector. XII of 1884. XIX of 1883.

Allowance of time for limitation.

34. In calculating the period of limitation for any suit filed in or proceeding before, a civil court for the recovery of a debt which was the subject of any proceedings under this Act the time during which such proceedings had continued shall be excluded.

Members of Board deemed to be public servants.

35. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

Proceedings deemed to be judicial proceedings.

36. All proceedings under this Chapter shall be deemed to be judicial proceedings within the meaning of section 228 of the Indian Penal Code. XLV of 1860.

Power to exempt debts from operation of the Act.

37. The Governor may by notification exempt any class of debts from the operation of the provisions of this Act.

Power to make rules.

38. (1) In addition to any power specially conferred by this Chapter, the Provincial Government may make rules—

(a) regulating the procedure before a Board;

- (b) prescribing the manner in which notices shall be issued and served or published under sub-section (1) of section 8;
 - (c) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid;
 - (d) prescribing the records to be kept and the returns to be made by a Board;
 - (e) prescribing the allowances, if any, to be paid to the Chairman and members of a Board;
 - (f) regulating the power of a Board to summon parties and witnesses under section 12 and the grant of expenses to witnesses;
 - (g) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (6) of section 14;
 - (h) prescribing the form of certificate to be granted under sub-section (3) of section 30 or sub-section (1) of section 22; and
 - (i) generally, for the purpose of carrying into effect the provisions of this Act.
- (2) In making any rule the Provincial Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to

ten rupees, for every day after the first during which the breach has been persisted in.

BGP. (Leg.) 40—23-10-1937—JS.

Duplicate : X9(J):6.262.N34t
 95



REVENUE DEPARTMENT.

Land Revenue.

NOTIFICATION.

No. 1142L.R.—18th January 1935.—The following report of the Bengal Board of Economic Enquiry on rural indebtedness, together with connected papers, is published for general information. Any public bodies or individuals who desire to make any representations regarding any of the recommendations should submit them to the Secretary to the Government of Bengal, Revenue Department, on or before the 15th of March, 1935.

O. M. MARTIN,
Secy. to the Govt. of Bengal.

Preliminary Report of the Board of Economic Enquiry on rural indebtedness.

The Board was constituted by Government Resolution of 1st December 1933 to conduct inquiries into such economic matters as might be referred to it by the Local Government and to initiate and conduct, subject to the sanction, of Government, enquiries into other economic matters.

2. The personnel of the Board was not finally settled till 26th February and the first meeting could not take place till 14th March. In the meantime, however, the note of Government dealing with the indebtedness of the agricultural population of Bengal and discussing the broad aspects of the problem had been circulated to all members. Apart from the question of reconciling the diverse reports of the Jute Committee this is the only subject which has been referred to the Board in accordance with the terms of reference.

3. His Excellency Sir John Anderson was good enough to open the first meeting with a short address which was much appreciated by all the members. A general discussion of the scope of the Board's activities followed and the extent to which it would be necessary for it to make inquiries on its own behalf and the agencies it could employ. It was pointed out that there was a vast volume of statistical information available about the budget and economic condition of agricultural families in Bengal in settlement reports and the publications of the Government of India and the publications of the Agricultural Department of the local Government and the reports of the Banking Committee. The general feeling, however, was to the effect that nothing could be done until this material had been investigated and epitomized and placed before all the members in a convenient form. Arrangements must, therefore, be made for remedying the deficiencies and making supplementary inquiries. It was felt that, if nothing else was necessary, local inquiries must be made as to the extent indebtedness had increased during the last three years of depression.

4. A Statistical Sub-Committee was then selected to undertake these duties. Another sub-committee was appointed to study the legislation which had already been undertaken or suggested in this and other provinces with a view to relieving the problems of usurious interest and growing indebtedness. A third sub-committee was formed to

study the constitution of the new land mortgage banks and other forms of credit societies and to make suggestions for their improvement and development. Both these sub-committees were given the task of studying the financial aspects and considering what sort of staff would be required if a scheme of debt conciliation and rural insolvency proceedings was approved in principle.

5. The Statistical Sub-Committee decided to rely in the first place on the inquiries which had been made in February to March 1934 by the Collectors in two or three villages of each circle in the Province. The information thus gathered as regards 6,359 families in sixteen districts was collated in the statistical laboratory of the Presidency College of Professor Mahalanobis, one of the members of the Board. The object of the analysis was to find out how many families there were in Bengal of the classes with which the Board was chiefly concerned, i.e., those with a stable interest in their lands who were mainly dependent on agriculture for their livelihood who could be classified as solvent, of doubtful solvency, or as insolvent. The test which it was decided to apply was that families whose debt did not exceed twice their present income after deducting the food consumed could be placed in the first class, those whose principal debt did not exceed four years' income in the second class, while those whose debts exceeded the latter figure must be regarded as insolvent. When the forms were devised however the importance of the area which each family cultivated as a *prima facie* indication of its ability to maintain itself in comfort in normal years and to give it reasonable prospects of a surplus wherewith to repay its debts was not realised and the forms did not lend themselves easily to this analysis. There were other defects in the forms also. From the majority of the forms as filled up it was difficult to ascertain the amount of interest that had accumulated and the actual difference between the principal indebtedness in 1928 before the depression and in 1933 after the depression. For this reason the Professor was obliged to base his statistics on the principal indebtedness, ignoring interest. As the scheme recommended by the Board is based on a general belief that the money-lenders are prepared at the present time to sacrifice the greater part of their accrued interest provided they are given sufficient assurances of the repayment of the capital, this defect is not perhaps serious. To some extent it has been neutralised by taking the income at the height of the depression for purpose of comparison with the debt.

More serious defects are the small proportion of the families in each district and therefore in the Province as a whole whose circumstances were investigated and the incurable difficulty of expecting the uneducated tenants of Bengal to remember their outgoings and incomings of three years ago or even to give accurate statements of their present debts, much less of their actual expenditure. The scientists among our members were also much impressed by Professor Bowley's report to the effect that no reliance could be placed on figures based on specimens unless those specimens were selected strictly at random. The instructions to the Circle Officers had been to select typical villages for their enquiries. When, however, the specimens represented so small a portion of the aggregate as they did in the case of these inquiries, most of us thought that the main thing was that no specimen should be abnormal or it must vitiate the results for the district, and this is all that the instruction to the Circle Officer meant in practice.

6. The tests which Professor Mahalanobis was able to apply to the statistics collated for Faridpur, the first district completed, satisfied him that the results were on the whole satisfactory. The general resemblance of the results subsequently placed before them for other districts completely satisfied the other members. The statistical committee were able to present the figures given in Appendix I as a working basis and the Board at their meeting in August accepted them and decided that no further inquiries were essential at this stage, though all additional or supplementary material available should be used for purposes of verification and comparison. Certain inquiries on a revised form were being made in certain districts. They were made under the personal supervision of Babu Nihar Chandra Chakravarty, the Board's Assistant Secretary. They were designed to remedy the defects which experience had disclosed in the previous inquiries, especially those due to varying interpretation by the inquiring officers of the rules laid down for their guidance and hence to eliminate as far as possible the personal element. The results of these supplementary enquiries are summarised in Appendix II. The summary of the results of an economic enquiry made by the Settlement Department in Rangpur is given in Appendix V.

7. On one point of particular importance the inquiries hitherto referred to threw very little light. The purpose of the debt conciliation scheme as outlined in the Government note was to relieve the agricultural debtors. Some members of the Board were inclined to believe that the scheme was almost equally of advantage to the creditors. It was one of the chief assumptions on which we were working that the money-lenders as a whole had failed to collect any interest, much less any part of the capital of their outstanding loans, during the last three years. Some of them might have sued their debtors in the civil courts, but owing to the absence of purchasers at a reasonable price execution proceedings dragged on indefinitely, and if the land was sold it was difficult to get possession or to find other cultivators to take settlement. If the number of cases in which the creditors sold up their debtors was say 5 per cent. only and in 95 per cent. of cases the debtors paid nothing and remained in possession of their land without any penalty, the consequence in course of time would be that the present indebtedness of the vast majority of agricultural population would be wiped out by limitation and the mahajans would lose their capital. If there was anything in this view, then legislation was as essential in the interests of the mahajans as in the interest of the debtors.

By the courtesy of the Inspector-General of Registration, all the Sub-Registrars in the Province were addressed to make particular inquiries as to the proportion of tenants with decrees recently executed against them or hanging over them, but the results have not yet come in.

8. The material which the Board has accepted may be summarised as follows:—

There are 50 lakhs of agricultural families with a permanent and transferable interest in their lands. They are mainly occupancy raiyats though some tenure-holders who cultivate part of their lands are included and some under-raiyats. Agricultural labourers and temporary under-raiyats or bargadars are excluded.

23 per cent. are not in debt at all.

43 per cent. are in debt less than two years' income (Class A).

Total debt Rs. 27 crores.

16 per cent. are in debt less than 4 years' income (Class B).

Total debt Rs. 23 crores.

The total indebtedness is in the neighbourhood of Rs. 97 crores.

22 per cent. of the 22 lakhs of families in the second class have land less than 2 acres and 21 have more than 8 acres. 21 per cent. of the 8.5 lakhs of families in the third class have less than 2 acres and 11.5 more than 8 acres.

9. While this information was being collected, the other sub-committees and the staff of the Board were considering the legislation and experiments that had been made in other provinces and in certain native states and seeking to find an answer to the questions put before them by Government. It was realised that the problem was immense and that it did not matter for practical purposes whether 40 per cent. or 70 per cent. of the agricultural families were in debt or whether their average debt was Rs. 50 or Rs. 150. The real figures for any individual family would only be ascertained when the actual work of dealing with their debt began if then the work of conciliation could only be undertaken as an experiment and the only practical question was the extent of the experiment. This was dependent not on the programme, but on the resources of Government as regards finances and staff.

9A. One of the questions asked in the Government note was whether the agriculturists had sufficient surplus to repay their existing debts. From the figures given in Appendix I, Table I, there is an average deficit between income and expenditure of 22 rupees. In Bankura the annual deficit is as much as 83 rupees and the agriculturist spends nearly twice his income. But in Chittagong there was an even heavier deficit according to the figures given by the inquiring officers in 1928 before the depression started. On the other hand, in the districts where the subsequent inquiries were made which are summarised in Appendix II, a surplus is shown in all districts which goes as high as 29 rupees in Dacca in 1928. The Board are of opinion that much importance cannot be placed on the figures for income and expenditure either in 1928 or 1933. The important thing is that the average debt shown in the last column is in all cases considerably less than one year's income in 1928. Expenditure has been shown to have decreased by 40 per cent. between 1928 and 1933. There is no reason why it should not decrease still further. There is a possibility also that income may again approximate the figures of 1928, as the price of rice has already gone up in all districts. The Board are therefore of opinion that all the families whose capital debt does not exceed twice the income of 1933 can repay their debt after the conciliation or adjustment by equated payments spread over a period of from 10 to 15 years.

As regards the families in class B whose debts are between 2 and 4 years of their calculated present income, the position is not so clear, but for similar reasons the Board are of opinion that if excessive interest is ruthlessly cut down, they should be able to pay off all their debts in equated payments spread over 15—25 years. In this class everything depends on the amount of land each family has and we have unfortunately not got the figures of average debt of families with 2, 4, 6, 8 acres of land, respectively. The average debt of this class

is 270 and the average income of all families was 218 in 1928. We see no reason to suppose therefore that all families in this class with more than 2 acres of land are not in possession of the necessary surplus. It is probable that the average debt of families with between 2 and 8 acres is less rather than more than the average.

The idea of the Bill which has been drafted is that an Adjustment Board should take up every case and deal with it as a whole. All the debts of each family must be reported and examined and instalments for payment will then be fixed. The civil courts will have no jurisdiction as regards the debtors who have come under the operation of the Act except as regards debts incurred after the award and decrees for such debts cannot be executed until the awarded debts have all been paid. If the debtor fails to exercise economy and to pay off his instalments, the Certificate Officer will issue certificates, and in case of repeated defaults he will sell all the land and treat the debtor as an insolvent. In fixing the instalments the Board will have regard to the surplus. In adjusting the debts it will be guided by amicable arrangements agreed to by a proportion of the creditors under section 12, or by reasonable offers made by the debtor or creditor under section 14. In either case it will adjust all the debts of that particular debtor and there will be no great difference of principle or system.

As regards insolvents who roughly correspond with the class whose debt exceeds four years' income, there will be a difference of principle. In the case of the classes previously mentioned debts will not ordinarily be reduced below the amount of the principal. In the case of insolvents they will. As far as we know all existing and proposed schemes for rural insolvency proceedings provide for selling up all the property of the debtors with the possible exception of their homesteads, agricultural implements, and cattle. We propose to reduce the debts of the insolvent to the amount it is estimated he can pay in instalments extending up to 20 years provided he exercises rigid economy. Our proposal is not so likely to cause an upheaval in agrarian societies and should not give rise to any new problems. It is far kinder to the debtor because he will be left with his land and given another chance. If, however, he does not take advantage of this chance and if he fails to pay the instalments which may be fixed punctually, he must be sold up ruthlessly. Some of our members are of opinion that even his homestead should be liable to sale. It greatly reduces the value of the land to a purchaser if part of it is occupied as a homestead by the ex-tenant. There is a danger in leaving a large number of families on the land with no land of their own to cultivate. It can at best lead to an extension of the system of barga cultivation, which has generally been held to have a bad economic effect on agricultural conditions. Further it seems desirable to make a distinction between the fate of those debtors who are sold up as insolvents after their debt has been drastically reduced to the amount they can pay and those who have failed for perhaps no fault of their own to pay liabilities not so reduced.

10. The Bill referred to above (Appendix IV) is drafted on the lines of the Central Provinces Act and the Punjab Bill. Its main provisions are as follows:—

(a) A Debt Adjustment Board will be constituted in as many centres as Government finds possible to receive applications both from debtors and creditors of the agricultural classes. [Central Provinces Act, section 4 (I), Bill, section 3 (I).]

(b) It can dismiss any application summarily; if not it can call for detailed statements from both debtors and creditors and fix a date for hearing both parties within one month; the amount of debts not stated by the creditors will be treated as the amount admitted by the debtor. The Board can extend the time for application if it sees good reason, but is not bound to do so. [Central Provinces Act, section 7 (1), Bill, sections 7 (1) and 8 (2).]

(c) The Board, if the creditors and debtors to the extent of 60 per cent. of the debts agree to conciliation, can settle all the debts of that debtor and the award counts as a decree of a civil court. [Central Provinces Act, section 12, Bill, section 12.]

(d) The Board, if it thinks either debtor or creditor has made a reasonable offer, can make an award for all the debts provided the amount awarded is not less than the principal of the debt, otherwise it dismisses the application. [Central Provinces Act, section 15, Bill, section 14.]

(e) If after an award any instalment becomes overdue, it can be recovered by certificate procedure. [Central Provinces Act, section 13, Bill, section 14AA.]

(f) Debts incurred after the award cannot be sued for till all the certificated debts have been realised. [Bill, section 17A.]

N.B.—It is thought that this will deter mahajans from lending more to these debtors and that by notices in union boards and sub-registration offices it is possible to give sufficient publicity to the names of the people who have come under the operation of this Act.

(g) Where the Board judges a tenant to be insolvent, it can reduce the debt to the amount he can pay, say 75 per cent. of the value of his land or assets, and fix instalments for its payment. [Bill, section 14(B).]

(h) If the instalments are not paid punctually, the Board can sell up all the property except the homestead itself. It will pay creditors proportionately from proceeds and release the insolvent from any further liability. [Bill, section 15.]

(i) The civil court will have no jurisdiction while proceedings are pending before the Board and cannot interfere with their awards. All the lands which are the security for the awarded debt will be attached as under section 64, Civil Procedure Code. [Bill, section 7A.]

(j) The Board will notify the landlords of the debtor's lands and execution of rent decrees will be postponed for six months. [Bill, sections 14AAA and 17A.]

(k) The awards will be transferable and they can be taken over for collection by any approved credit society. [Bill, section 23 (1).]

The Board are in favour of legislation on these lines being passed at the earliest possible date and there are not many provisions in the Bill on which there are great differences of opinion. The exception is the question of the effect of attachment of the lands of the debtor till the award is discharged on the security of the landlord for his rent and how the payment of the current rent can be ensured. As a possible means of meeting this difficulty, the proviso to section 17A has been drafted for the consideration of Government.

11. The questions which have given rise to controversy and on which full agreement has not been reached are connected with the working of the proposed Act. The first point on which some of the members are not convinced is whether conciliation alone without some attempt at simultaneous part payment in cash or debentures of the

creditors' dues will yield results worthy of the organisation and expenditure involved. In the Government note it was suggested that unless payments in cash were arranged the creditors would have no inducement to agree to substantial reductions of their claim. All the members are in favour of Government starting land mortgage banks in every subdivision as soon as possible, but as it is regarded as an essential feature of such banks that they should not lend more than 50 per cent. of the market value of the debtor's land, it is felt that these banks will not, even if they could be established in great numbers in a short time, be of much help to the ordinary cultivator, the class which represents 70 per cent. of the rural population of Bengal. The essential feature of the existing rural co-operative banks is that each member should be security for all others and even if these banks were available in every village the scheme is too big to be worked on purely co-operative lines. If Government could see its way to raising Rs. 2 crores and distributing it like agricultural loans through its own officers in order to pay to each mahajan one out of 8 or 12 instalments of every awarded debt, the chances of the scheme being a success would be increased enormously. If Government thinks that its natural objection to take upon itself the odium of becoming the direct money-lender of the agriculturist is insuperable, it might be considered whether each union board could become a temporary bank lending money advanced by Government from a public loan. For a year after the first instalment had been advanced there would be no work to do and there would be time to get the account system in working order or to arrange for independent banks to take over the credits and liabilities. Whether any scheme is possible or not with this end in view the members who are doubtful still unhesitatingly recommend that debt conciliation and adjustment should be taken up on as wide a scale as possible. They are of opinion that the fact that the machinery of the Certificate Department will be available for realising their dues instead of the civil court and that the Certificate Officer will himself be responsible on application for taking the initiative and that the lands of the debtors will be attached all the time the instalments are being paid will be sufficient inducement, more especially perhaps to the creditors of families who are deeply in debt and from whom they cannot expect any voluntary payments. Though this is not exactly clear from the Bill some of the members contemplate that the Revenue Officer will be responsible for receiving all monies due to creditors and that the creditors will get nothing direct. This seems to be a heavy burden to put on the Revenue Officer, but it would avoid disputes and the giving of insufficient credit for payments actually made.

12. The next question was how far the working of the Act should be treated as an experiment. This is largely a matter of words because the scheme must be an experiment. It is obviously impossible to deal with the debts of 39 lakhs of families simultaneously. It has been assumed that no Board can deal with more than 600 cases a year and that it would take 680 Boards to cover the Province in three years even if their attention is confined to the 12-30 lakhs of solvent families with between 2 and 8 acres of land. (Appendix III.)

The Board contemplate that as a beginning one Board should be constituted in every Chaukidari Circle Officer's jurisdiction at once with the Circle Officer or a Munsif as President and that a second officer, preferably a junior Sub-Deputy Collector or a Settlement

Kanungo should be appointed as his executive officer and Certificate Officer. Two or three retired Government officers or non-officials would be members, and after this Board had acquired some experience each of the original members would go out with new members to work as subsidiary Boards independently. There are at present 179 Circles in Bengal and circles where there were many applications and where the work prospered would gradually be split up into two, each with its own Circle Officer and executive officer. The number of panels or subsidiary Boards in each circle would depend on the quality of the people available as members and the general progress. In order to complete the programme in three years, on an average each Board would have to be divided eventually into 6 or 7 subsidiary Boards working independently. The operation of the Act would be an experiment in the sense that its working would be constantly watched and its system varied as defects became apparent; further, considerable variations would be allowed in different areas to give an opportunity of testing various methods. But to judge the success of an experiment of this nature from the point of view of determining whether it was possible to prevent the agriculturists getting into debt again or whether in reasonable number of cases no loss at all to Government was involved would take 10 or more years. The Board are strongly of opinion that the scheme should not be treated as an experiment from this point of view; they say that similar schemes have been successful in one Indian State and that Government must act on the presumption that it will be a success because no alternative has been suggested by anybody and there is absolute agreement that the present indebtedness of the agricultural population and the inability of the mahajans to recover their full dues and to lend out more money even in urgent cases call for drastic remedies. It has been argued that as there is no other scheme to fall back on if this is a failure, it must be made a success by profiting from the mistakes and correcting the procedure, and altering the law. A set determination to proceed with the scheme in spite of failures and losses here and there will rally in its favour all workers social and political.

The Board do not, therefore, recommend that the Act should be applied only to a few districts or to one thana or subdivision even in each district.

13. It was the main recommendation of the District Administration Committee that Government should have their own resident officer in units as small as possible. It is the proposal of others including the Indian Chamber of Commerce that there should be in every group of unions resident officers to bring into co-ordination the work of the Agricultural, Industries, Co-operative and other departments. The scheme of our Board would work in with all these proposals of which the object was closer touch between Government and the people in the villages. Circles would become smaller and their Circle Officer would have wider and more diverse duties. With the help of their executive officers they might revise and then maintain the record-of-rights in their circles, they would execute all certificates, inspect co-operative banks and enforce jute restriction and other schemes connected with the economical development of the villages.

14. As regards the cost of the extra staff required, it is proposed that there should be a levy of 1½ per cent. in court-fee stamps on every application for adjustment and that the Circle Officer should

realise all instalments and pay the creditors and that there should be a levy of 3 per cent. on all sums collected and paid. If the creditors eventually paid these fees it would be much cheaper than the costs they would have incurred in civil courts.

15. The Bill as drafted provides for the reduction of the debts of insolvents to the amount they can pay in not more than 20 instalments. If a man's property is only worth 60 per cent. of his total debts, the mahajan by selling him up in the civil court would not realise as much as 60 per cent. of his claims. It is argued therefore that the creditors cannot lose by agreeing to such adjustment and the relief the scheme will give to such people is far more valuable than the relief solvent debtors will obtain. Sir E. Benthall after first being in favour of taking up the easier cases first is now of opinion that the definite objective should be to deal with the more difficult cases first. The majority of the Board are not in favour of limiting the operation of the Act as drafted to any particular class of debtors either in the first stage or eventually. In every area the class of cases given preferential treatment will depend on circumstances, e.g., if funds were available for paying instalments, then the money available should be used to benefit as many individuals as possible and cases of indebtedness of less than Rs. 200 might be taken up first. If any restriction is imposed the Board suggests that no cases of indebtedness exceeding Rs. 1,000 should be taken up and that families with more than 8 acres could be left out on the ground that such people could sell some of their land and look after themselves. If further restriction is necessary families with less than 2 acres could be left out because it is doubtful if such families can ever support themselves on the proceeds of their land alone. If their mahajans are willing to leave them alone and to get what they can gradually, Government would be doing the debtors no good by interfering. If they are in debt to any great extent it is impossible to prevent them becoming landless labourers sooner or later because they have no surplus wherefrom to pay interest or principal of any debt.

16. One of the points raised in the Government note was the prevention of future borrowing. Mr. N. Sarkar was very anxious that future borrowing should not be restricted too drastically. A man might want to buy more land and temporary borrowings to buy seeds, etc., might be necessary in many cases. The Board are of opinion that when say 6 out of 8 instalments have been paid there is no reason why the debtors should not be able to borrow again for productive purposes and they do not think that the provisions of the Bill as drafted will prevent it.

On the other hand the Bill seems to go far enough in preventing further borrowing. Until the awarded debt is discharged, the would-be lender will have no security except the ornaments or personal credit of his borrowers. Proceedings of the magnitude contemplated cannot go on anywhere in secret and the money-lenders should not be allowed to plead ignorance if before issuing a loan they have failed to ascertain whether the borrower has taken advantage of the Act or not.

17. All the members have agreed that arrear rents except those barred by limitation should be included in the certificated award and that possibly they should be given priority of payment; nearly all the members have agreed that the different tenancies of the debtor should

be attached on the analogy of section 64 of the Civil Procedure Code, until the awarded debt is paid off. But there are great difficulties in providing for the regular payment of current rent. The award will not be of much use to the creditors if in the meantime the tenant defaults and the landlord sells the holding under the Tenancy Act. But the landlords will resist the proposals vigorously if they think that their long admitted right to treat rent as a first charge is being encroached on. At first it was proposed that section 168 of the Tenancy Act should apply but this merely means that if the first sale subject to the encumbrance of the awarded debts fails, another sale free of this encumbrance will take place. The next proposal was that the debtors should be responsible for producing their rent receipts before the Revenue Officer each year, and that if they failed to do so he should take action under the Certificate Act, as if an instalment had not been paid. The proposal in the Bill is that the landlord can bring a suit for current rent, but he must give six months' notice before proceeding to execution. That would, it is thought, give time for the creditors to arrange for payment.

18. During the past few years there have been combinations of raiyats not to take settlement of purchased holdings and it is well known that certificates against the members of bankrupt co-operative banks filed by a liquidator are seldom successful. Past experience shows that there is a considerable danger that if defaults are common in any neighbourhood and many villagers are sold up, nobody will buy the land for fear of litigation and that the creditor, whether he be Government or a land mortgage bank or a private individual if he has to purchase, will not be able to settle the land. It was suggested that in the case of sales under this Act the purchaser should acquire the land with a clear title and only be responsible for money claims as compensation to any co-sharer who declared that he was not a party to the proceedings. Opinions are divided, but it seems doubtful if the general public would at present consent to any such special provision. If the Collector has the power to deliver possession to the purchaser by ejecting the old tenant or his sub-lessees, pending the decision of title in a regular civil suit, it is possible that if the public approve the principles and are satisfied that the instalments fixed for payment were well within the capacity of the debtor to pay, they will have no sympathy with defaulters and that the difficulty will not often arise. Section 14AAA as incorporated in the Bill for the consideration of Government may suggest lines on which a solution of the difficulty may be found.

19. The members are practically unanimous that interest on the awarded debt should not exceed 6 per cent. Whether it will be necessary to calculate this annually and to add it to the instalments is not certain. If Government or a bank advanced the amount it would be convenient if they could wait till all the instalments had been paid and then collect an extra instalment when the debtor was otherwise free from debt to cover all interest and expenses.

20. When the Bill was first drafted it was assumed on the analogy of the Central Provinces Bill that all awards would be registered. Most of the members are now of opinion that the registration will be unnecessarily expensive and troublesome. The awards will be filed in the office of the Conciliation Board or when the Board ceases to function in the office of the Revenue Officer who will carry on the executive functions of the Board. Record in this office should be given the effect of registration by the Act.

*Part
of
the
Bill
is
to
be
considered
at
the
next
meeting.*

APPENDIX I.

Table I—Provincial Table : Family averages of Land, Income, Expenditure, etc.

Districts.	No. of families surveyed.	Average earners.	Average Dependents.	Average family size.	Average land (in acres).	1928 Average (in rupees).				1933 Average (in rupees).			
						Income.	Expenditure.	Surplus.	Debt.	Income.	Expenditure.	Surplus.	Debt.
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1. Burdwan ..	490	1.80 ± .04	4.32	6.12 ± .11	6.06 ± .16	272 ± 8	276 ± 8	-4	138 ± 15	156 ± 6	197 ± 7	-41	219 ± 13
2. Birbhum ..	252	2.39 ± .07	4.04	6.43 ± .15	7.09 ± .47	238 ± 10	197 ± 6	+41	163 ± 25	172 ± 9	169 ± 8	+3	162 ± 16
3. Bankura ..	258	2.25 ± .08	4.33	6.58 ± .18	8.04 ± .59	146 ± 6	267 ± 10	-121	113 ± 17	86 ± 6	169 ± 12	-83	244 ± 17
4. Midnapore ..	559	2.40 ± .04	5.10	7.50 ± .11	11.18 ± 1.25	228 ± 16	238 ± 15	-10	95 ± 38	144 ± 9	166 ± 9	-22	187 ± 29
5. Murshidabad ..	233	2.19 ± .06	4.57	6.76 ± .17	5.96 ± .36	198 ± 13	187 ± 9	+11	52 ± 15	132 ± 8	142 ± 8	-10	106 ± 9
6. Jessore ..	490	2.30 ± .04	3.70	6.00 ± .09	7.13 ± .28	164 ± 5	165 ± 7	-1	52 ± 6	84 ± 3	97 ± 3	-13	81 ± 2
7. Nadia ..	304	2.35 ± .06	4.73	7.08 ± .16	12.03 ± .46	235 ± 9	239 ± 8	-4	105 ± 20	141 ± 6	163 ± 6	-22	199 ± 15
8. Fardha ..	297	1.92 ± .04	4.75	6.87 ± .17	4.13 ± .17	179 ± 6	149 ± 6	+30	101 ± 14	79 ± 3	82 ± 6	-3	156 ± 10
9. Bogra ..	397	1.92 ± .03	4.71	6.68 ± .12	5.74 ± .37	257 ± 8	236 ± 11	+21	114 ± 9	128 ± 5	134 ± 8	-6	150 ± 9
10. Rangpur ..	1,043	2.06 ± .03	5.24	7.30 ± .09	7.40 ± .20	220 ± 5	213 ± 14	+7	102 ± 7	99 ± 2	120 ± 3	-21	147 ± 6
11. Rajshahi ..	297	2.12 ± .05	3.98	6.10 ± .14	6.30 ± .28	222 ± 14	183 ± 7	+39	108 ± 17	113 ± 6	112 ± 4	+1	181 ± 19
12. Malda ..	77	2.71 ± .11	2.63	5.34 ± .21	5.81 ± .52	48 ± 6	49 ± 6	-1	6 ± 12	29 ± 4	26 ± 3	+3	11 ± 3
13. Dacca ..	549	2.26 ± .04	5.03	7.29 ± .10	4.29 ± .26	235 ± 7	250 ± 7	-15	158 ± 12	115 ± 4	144 ± 3	-29	236 ± 11
14. Faridpur ..	424	1.76 ± .04	4.72	6.48 ± .14	4.46 ± .21	207 ± 6	198 ± 7	+9	146 ± 4	105 ± 3	118 ± 5	-13	217 ± 10
15. Chittagong ..	344	2.43 ± .06	5.40	7.83 ± .14	5.47 ± .26	136 ± 20	225 ± 15	-89	90 ± 19	81 ± 5	156 ± 8	-75	265 ± 14
16. Tippera ..	345	2.02 ± .04	5.75	7.77 ± .15	3.98 ± .14	247 ± 6	230 ± 6	+17	197 ± 21	123 ± 3	121 ± 4	+2	280 ± 17
All districts	6,359	2.14 ± .01	4.75	6.89 ± .04	6.73 ± .14	218 ± 4	217 ± 3	+1	112 ± 4	114 ± 2	136 ± 2	-22	187 ± 4

Table 2—Percentage number of families in different debt class.

District	No. of families surveyed.	Number of families in each class.				Percentage number of families in each class.			
		No debt.	A.	B.	C.	No debt.	A.	B.	C.
1	2	3	4	5	6	7	8	9	10
1. Burdwan	490	120	197	92	81	24.5±1.3	40.2±1.5	38.8±1.2	16.6±1.1
2. Birbhum	252	62	183	37	20	24.6±1.8	52.8±2.1	14.7±1.5	7.9±1.1
3. Bankura	258	51	66	45	96	19.8±1.7	25.6±1.8	17.4±1.5	37.2±2.0
4. Midnapore	559	225	209	62	63	40.2±1.4	37.4±1.4	11.1±.9	11.3±0.9
5. Murshidabad	232	57	133	25	17	24.6±1.9	57.4±2.2	10.8±.9	7.2±1.1
6. Jessore	490	142	240	59	49	29.3±1.4	38.6±1.5	12.1±1.4	10.0±.9
7. Nadia	304	51	176	29	48	16.8±1.4	57.9±1.9	9.4±1.1	15.9±1.4
8. Pabna	297	44	136	68	49	14.8±1.4	45.8±1.9	22.9±1.8	16.5±1.4
9. Bogra	397	97	159	63	78	24.4±1.5	40.3±1.7	15.9±1.2	19.6±1.3
10. Rangpur	1,043	252	460	186	145	24.2±1.7	43.8±1.9	17.9±0.8	13.9±1.6
11. Rajshahi	297	75	127	56	39	25.3±1.7	42.9±1.9	20.9±1.6	11.1±1.3
12. Malda	77	56	12	1	8	72.7±3.4	15.6±2.8	1.3±.9	7.0±2.3
13. Dacca	549	63	241	100	145	11.8±.9	43.9±1.4	38.2±1.1	26.1±1.3
14. Faridpur	424	72	195	77	80	17.0±1.3	46.0±1.6	18.2±1.3	18.8±1.3
15. Chittagong	344	59	101	57	127	17.1±1.4	29.5±1.6	16.7±1.4	36.8±1.7
16. Tippera	346	36	155	91	64	10.4±1.1	44.8±1.8	26.6±1.6	18.2±1.4
All districts	6,859	1,462	2,740	1,048	1,109	23.0±0.4	43.1±.4	16.5±.3	17.4±.3

Table 3—Percentage number of Families in Classes A and B, holding different quantity of lands.

District.	Number of families surveyed.	Number of families in Class A.	Percentage number of families in each land, Class A.					Number of families in Class B.	Percentage number of families in land, Class B.				
			0-2	2-4	4-6	6-8	Over 8.		0-2	2-4	4-6	6-8	Over 8.
			4	5	6	7	8		10	11	12	13	14
1. Burdwan ..	490	497	8.8±.7	9.8±.9	8.8±.8	5.2±.7	10.8±.9	32	2.9±.6	7.1±.8	3.5±.6	2.4±.5	3.7±.6
2. Birbhum ..	252	183	9.9±1.2	17.1±1.6	10.7±1.3	4.0±.8	11.1±1.3	37	1.6±.5	4.4±.9	3.5±.8	2.4±.6	2.8±.7
3. Bankura ..	258	66	2.7±.7	7.0±1.1	3.4±.7	5.4±.9	7.0±1.1	45	6.0±.9	6.6±1.8	1.6±.6	0.4±.3	3.5±.8
4. Midnapore ..	559	209	9.8±.8	9.8±.9	7.2±.7	3.2±.6	7.5±.7	82	1.4±.5	3.6±.6	2.1±.4	1.3±.3	3.9±.5
5. Murshidabad ..	233	133	11.2±1.4	10.4±1.7	10.8±1.4	7.8±1.2	8.2±1.2	25	3.0±.6	3.0±.6	1.7±.4	0.9±.3	2.2±.4
6. Jessore ..	490	240	9.6±.9	10.4±.9	8.6±.8	5.4±.7	14.9±1.1	59	3.5±.8	3.3±.8	1.2±.5	1.6±.5	2.5±.7
7. Nadia ..	304	176	34.2±1.9	19.4±1.2	8.3±.7	0.7±.3	0.3±.2	29	1.6±.5	4.2±.8	1.6±.5	1.3±.4	0.7±.3
8. Pabna ..	297	136	12.8±1.3	10.8±1.2	11.8±1.2	4.7±.8	5.7±.9	68	6.7±.9	3.8±1.1	4.4±.8	1.0±.4	4.0±.8
9. Bogra ..	397	159	12.9±1.1	11.6±1.0	6.3±.8	4.0±.7	5.3±.7	33	4.5±.7	5.5±.8	2.2±.6	0.3±.2	2.3±.5
10. Rangpur ..	1,043	460	7.9±.6	10.9±.6	7.1±.5	6.0±.5	12.1±.7	136	1.3±.4	2.9±.6	3.3±.4	2.8±.3	5.5±.5
11. Rajshahi ..	297	127	8.7±1.1	12.7±1.8	8.1±1.1	5.1±.9	8.1±1.1	58	3.0±.7	5.1±.9	4.4±.8	3.0±.8	4.4±.8
12. Malda ..	77	12	3.9±1.5	2.6±1.2	1.3±.8	1.3±.8	6.5±1.9	1			1.3±.9		
13. Dacca ..	549	241	14.2±1.0	15.1±1.0	7.3±.7	2.2±.4	5.1±.8	100	4.4±.8	3.6±.7	4.4±.8	2.2±.6	1.6±.4
14. Faridpur ..	424	195	14.6±1.1	11.3±1.0	10.4±1.0	3.3±.6	6.4±.8	77	7.1±.8	5.9±.8	2.8±.5	0.7±.3	4.7±.4
15. Chittagong ..	344	101	7.3±.9	10.3±1.1	6.1±.9	2.6±.6	3.2±.6	57	4.7±.8	6.1±.9	3.2±.6	1.5±.4	1.2±.4
16. Tippera ..	345	155	16.6±1.3	12.7±1.2	7.8±.9	3.2±.6	4.6±.8	91	8.7±1.0	7.2±.9	6.9±.9	0.9±.3	2.9±.6
All districts ..	6,359	2,740	9.6±.2	11.5±.3	8.2±.2	4.7±.2	9.2±.2	1,048	8.9±.9	5.7±.2	3.2±.1	1.8±.1	1.9±.1

44.3 45.9 16.0

Table 4—Total Debt in each class together with Averages and Percentages.

Districts.	No. of families surveyed.	1933 : Debt in each class (in rupees).				1933 : Average Debt in each class (in rupees).				Percentage debt in each class.		
		A	B	C	A+B+C	A	B	C	A+B+C	A	B	C
		3	4	5	6	7	8	9	10	11	12	13
1. Bardwan	490	36,629	26,663	42,164	107,456	186	312	521	290	34.1	26.7	39.2
2. Birbhum	252	19,451	10,833	10,414	40,698	146	293	521	214	47.8	26.6	25.6
3. Bankura	258	13,505	12,097	37,305	62,907	204	269	389	304	21.5	19.2	59.3
4. Midnapore	559	31,570	21,985	51,052	104,607	151	354	810	313	30.2	21.0	48.8
5. Murshidabad	232	11,590	7,110	6,114	24,814	87	284	360	142	46.7	28.7	24.6
6. Jessore	490	17,344	11,178	11,365	39,887	72	189	232	115	43.5	28.0	28.5
7. Nadia	304	23,500	10,330	26,520	60,350	134	356	553	239	38.9	17.2	43.9
8. Pabna	297	12,046	12,743	21,571	46,360	89	187	440	183	26.0	27.5	46.5
9. Bogra	397	19,900	11,279	23,266	59,445	125	179	362	198	33.5	19.0	47.5
10. Rangpur	1,043	46,904	46,439	59,551	152,894	102	250	411	193	30.7	30.4	38.9
11. Rajshahi	297	13,869	14,659	25,358	53,886	109	262	768	243	25.7	27.2	47.1
12. Malda	77	335	15	490	840	28	15	61	40	39.9	1.8	58.3
13. Dacca	549	31,620	35,929	89,625	157,174	131	359	618	323	20.1	22.9	57.0
14. Faridpur	424	23,424	20,210	48,582	92,216	120	261	607	262	25.4	21.9	52.7
15. Chittagong	344	13,628	10,161	67,357	91,146	135	178	530	220	15.0	11.1	73.9
16. Tippera	345	20,989	31,526	44,019	96,534	135	346	599	311	21.7	32.7	45.6
All districts	6,359	886,304	285,157	569,753	1,191,214	123	270	517	243	28.2	23.9	47.9

APPENDIX II

Table 1.—Family averages of land, income, expenditure, etc.

Districts.	Number of families surveyed.	Earners.	Depen- dents.	Size of family.	Land (in acres).	1928 (in rupees.)				1933 (in rupees).			
						Income.	Expendi- -ture.	Surplus.	Debt.	Income.	Expendi- -ture.	Surplus.	Debt.
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1. Midnapore ..	101	2.4	6.0	8.4	8.07	208	204	+7	108	148	158	-15	195
2. Tippera ..	304	1.9	4.9	6.8	8.01	171	163	+8	112	146	109	+7	250
3. Dacca ..	112	2.0	5.7	7.7	2.10	385	356	+29	102	302	302	..	302
4. Murshidabad ..	100	1.6	4.7	6.8	3.22	112	111	+1	12	100	103	-3	25
5. Mymensingh ..	313	2.0	5.0	7.0	3.07	214	208	+6	94	130	145	-15	200
6. Pabna ..	246	1.6	3.5	5.1	4.18	299	272	+27	70	178	160	+9	100
7. Bogra ..	372	1.9	3.7	5.6	3.80	192	147	+45	66	97	88	+9	96

B 6

84
1581
226

1458
226
208
18

Table 2.—Percentage number of families in different debt classes.

Districts.	Number of families surveyed.	Number of families in each class.				Percentage number of families in each class.			
		No debt.	A	B	C	No debt.	A	B	C
1	2	3	4	5	6	7	8	9	10
1. Midnapore ..	101	22	57	9	13	21.7	56.4	9.0	12.9
2. Tippera ..	304	41	145	66	52	13.5	47.7	21.7	17.1
3. Dacca ..	112	44	45	11	12	39.3	40.2	9.8	10.7
4. Murshidabad ..	100	39	61	..	..	39.0	61.0	..	..
5. Mymensingh ..	313	45	169	51	48	14.4	54.0	16.3	15.3
6. Pabna ..	246	66	156	20	4	26.8	63.4	8.2	1.6
7. Bogra ..	372	201	112	29	30	54.0	30.1	7.7	8.0

25.45 3.63

123
17.6 649
92 7 1074
153 116.8
167

352.8 72.7 65.6
50.4 10.4 9.4

Table 3.—Percentage of families in classes A and B holding different amount of land.

Districts.	Number of families surveyed.	Number of families in class A.	Percentage number of families in each land, class A.					Number of families in class B.	Percentage number of families in land, class B.				
			0-2	2-4	4-6	6-8	over 8		0-2	2-4	4-6	6-8	Over 8.
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1. Midnapore ..	101	57	32.8	6.0	4.9	5.0	5.0	9	4.0	2.0	..	..	3.0
2. Tippera ..	304	145	25.0	12.5	5.3	2.9	2.0	06	0.0	6.0	2.6	0.7	1.6
3. Dacca ..	112	45	32.2	3.6	0.9	2.6	0.9	11	6.2	1.8	..	..	1.6
4. Murshidabad ..	100	61	23.0	22.0	8.0	1.0	7.0	..	..	..	..	..	..
5. Mymensingh ..	313	160	33.9	9.3	4.8	2.9	3.1	51	8.0	2.9	2.5	0.0	2.3
6. Pabna ..	246	156	35.4	10.2	7.7	3.2	6.9	20	5.0	1.2	0.8	0.4	0.8
7. Bogra ..	372	112	30.3	30.3	15.1	12.5	11.6	20	24.1	24.1	31.0	3.4	17.2

20
60
35
32
60
40
40

212.6
30.4

10.2
8.6
32
5.3

Table 4.—Total debt in each class together with averages and percentages.

Districts.	Number of families surveyed.	1933: Debts in each class (in rupees).				Percentage Debt in each class.			Average debt in each class.			
		A	B	C	Total	A	B	C	A	B	C	A+B+C.
1	2	3	4	5	6	7	8	9	10	11	12	13
1. Midnapore ..	101	4,408	4,767	10,557	19,727	22.3	24.2	53.6	77	530	812	250
2. Tippera ..	304	14,618	20,177	41,240	76,035	19.2	26.5	54.2	101	306	703	239
3. Dacca ..	112	12,046	11,135	10,080	33,861	35.8	32.8	31.4	268	1,012	890	408
4. Murshidabad ..	100	2,490	..	..	2,490	100.0	..	..	41	..	..	41
5. Mymensingh ..	313	17,571	10,403	25,014	62,648	28.0	31.1	40.9	104	382	534	238
6. Pabna ..	246	16,131	6,695	1,790	24,622	65.5	27.2	7.3	103	335	449	137
7. Bogra ..	372	10,103	6,076	18,670	35,749	28.2	16.5	52.2	90	241	622	209

299 161.3
42.5 23.3
239.5 784 4100
34.2 112 585

APPENDIX III.

Table A.

Districts.	Families in thousand.				No. of Board required to deal within 3 years per 600 cases per year.				Circles in districts.			Estimated cost (in rupees).			Total debt (in lakhs).	Fees at 1½ per cent.
	A.	B.	C.	Total.	A.	B.	C.	Total.	No. of full time officers.	No. of half time officers.	No. of non-official Boards.	Establishment charges.	Pay of revenue officers.	Total.		
	2	3	4	5	6	7	8	9	10	11	12	13	14	15		
1. Burdwan ..	47	22	20	89	26	12	11	49	7	14	28	2,11,680	1,51,200	3,62,880	2,57	3,85,500
2. Birbhum ..	52	15	8	75	29	8	4	41	5	10	26	1,77,120	1,08,000	2,85,120	1,59	2,38,500
3. Bankura ..	27	17	38	82	15	9	21	45	6	12	27	1,94,400	1,29,600	3,24,000	2,50	3,75,000
4. Midnapore ..	136	39	39	214	76	21	21	118	12	24	82	5,09,760	2,59,200	7,68,960	6,68	10,02,000
5. Murshidabad ..	63	12	8	83	35	7	4	46	6	12	28	1,98,720	1,29,600	3,28,320	1,17	1,75,500
6. Jessore ..	108	26	22	156	60	15	12	87	8	16	63	3,75,840	1,72,800	5,48,640	1,78	2,67,000
7. Nadia ..	62	10	17	89	34	6	9	49	8	16	25	2,11,680	1,72,800	3,84,480	2,13	3,19,500
8. Pabna ..	69	35	26	130	38	19	15	72	6	12	54	3,11,040	1,29,600	4,40,640	2,39	3,58,500
9. Bogra ..	59	23	29	111	33	13	16	62	3	6	53	2,67,840	64,800	3,32,640	2,19	3,28,500
10. Rangpur ..	120	49	38	207	67	27	21	115	9	18	88	4,96,800	1,94,400	6,91,200	4,02	6,08,000
11. Rajshahi ..	84	41	21	146	47	22	12	81	7	14	60	3,49,920	1,51,200	5,01,120	3,52	5,28,000
12. Malda ..	15	1	9	25	8	1	5	14	4	8	2	60,480	86,400	1,46,880	10	15,000
13. Dacca ..	178	73	105	356	99	41	58	198	9	18	171	8,55,360	1,94,400	10,49,760	11,58	17,37,000
14. Faridpur ..	145	57	60	262	81	32	33	146	9	18	119	6,80,720	1,94,400	8,25,120	6,94	10,26,000
15. Chittagong ..	28	15	35	78	16	8	19	43	5	10	28	1,85,760	1,08,000	2,93,760	2,49	3,73,500
16. Tippera ..	187	112	75	374	104	62	42	208	9	18	181	8,98,560	1,94,400	10,92,960	11,86	17,40,000
All districts ..	1,380	547	550	2,477	768	303	308	1,374	113	226	1,035	59,35,680	24,40,800	83,76,480	63,21	94,81,500

Table B.

Districts.	Families (in thousand).				No. of Boards needed in 3 years.				Circles in the Districts.			Estimated costs (in rupees).			Total debt (in lakhs).	Fees at 1½ per cent.	
	Total families.	A	B	C	A+B+C.	A	B	C	A+B+C.	No. of officers (full).	No. of officers (Half).	No. of non-official Boards.	Estab-lish-ment charges.	Pay of revenue officers.			Total.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
1. 24-Parganas ..	202	87	33	35	155	48	18	20	86	7	14	65	3,71,520	1,51,200	5,22,720	3,78	5,67,000
2. Hooghly ..	84	36	14	16	65	20	8	8	36	5	10	21	1,55,520	1,08,000	2,63,520	1,57	2,35,500
3. Howrah ..	37	16	6	6	28	9	3	3	15	3	6	6	64,800	64,800	1,29,600	69	1,03,500
4. Bakarganj ..	332	143	55	58	256	79	31	32	142	10	20	112	6,13,440	2,16,000	8,29,440	6,21	9,31,500
5. Dinajpur ..	201	87	33	35	155	48	18	20	86	7	14	65	3,71,520	1,51,200	5,22,720	3,75	5,62,500
6. Jalpaiguri ..	63	27	10	11	48	15	6	6	27	5	10	12	1,16,640	1,08,000	2,24,640	1,18	1,77,000
7. Mymensingh ..	601	259	99	105	463	144	55	58	257	18	36	208	11,10,240	3,88,800	14,99,040	11,24	16,86,000
8. Noakhali ..	151	65	25	26	116	36	14	14	64	5	10	40	2,76,480	1,08,000	3,84,480	2,82	4,23,000
9. Khulna ..	170	73	28	30	131	40	16	17	73	6	12	55	3,15,360	1,29,600	4,44,960	3,18	4,77,000
Total ..	1,841	793	303	321	1,417	430	169	178	766	66	132	588	33,95,520	14,25,600	48,21,120	34,42	51,63,000

Explanatory Statement to Appendix III.

Estimate for Debt Conciliation work in Faridpur.

(The total number of families of the raiyats with occupancy rights in land has been taken from the total number of earners of the cultivating class shown in the Census Tables. Probably this is an overestimate because some families have more than one "Earner".)

Number of families of classes A, B and C debtors are 145,000, 57,000 and 60,000, respectively.

Progress of work—

600 cases per Board per year for whole-time Board.

Disposal of work in 3 years—

81, 32 and 33 Boards in all 146 Boards would be required for A, B and C classes, respectively.

Cost for each Board—

			Per mensem.
			Rs.
One Revenue Officer	..	..	200
„ Orderly	..	..	10
„ Clerk Peshkar	..	..	30
„ Enquiry Agent	..	..	30
Fixed travelling allowance for Enquiry Agent			10
Peon	..	..	12
Boat hire, etc., for non-official members of Board	..	..	20
Contingencies	..	..	8
		Total ..	320

There are 9 circles in the district, each on an average with one Sub-Registrar, one Circle Officer, one Sub-Inspector of Schools and one Co-operative Auditor. Altogether they will give 18 officers' work if they work half time. If only one Revenue Officer be given for each circle and the works of the Boards are done to a large extent by non-official agency, the actual extra cost incurred by Government on gazetted officers will be the pay of these 9 Revenue Officers only. Each Subsidiary Board will, however, require its own clerk and peons and Enquiry Agent. Assuming, however, that half the pay of all existing Government officers proposed to be employed on this work should be included in the scheme. The calculation of cost is as follows :—

		Rs.
9 Revenue Officers for three years, 36 half-time officers or 18 officers, i.e., 27 officers in all for three years at Rs. 200 per mensem		1,94,400
Establishment for 146 Boards at Rs. 120 per mensem for three years	..	6,30,720
	Total ..	8,25,120

APPENDIX IV.

THE BENGAL RELIEF OF INDEBTEDNESS BILL.

A

BILL

to provide for the relief of indebtedness and the improvement of agrarian conditions in Bengal.

WHEREAS it is expedient to relieve agriculturists from indebtedness and to improve the position of the agricultural population by helping them to settle their debts on fair terms ;

AND WHEREAS the previous sanction of the Governor-General required under section 80A(3) of the Government of India Act and the previous sanction of the Governor required under section 80C of the said Act have been obtained ;

It is hereby enacted as follows :—

Short title,
extent and
commencement.

1. (1) This Act may be called "The Bengal Relief of Indebtedness Act, 1935."

(2) It extends to the whole of Bengal except the town of Calcutta as defined in the Calcutta Municipal Act, 1923.

(3) This Act shall come into force on such date and in such areas as the Local Government may, by notification, direct.

Interpretation
clauses.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) The expressions "agriculture", "holding", "land", "tenant", "occupancy holding", "agricultural year", "landlord", "rent", and "village" shall have the meanings assigned to them in or under the Bengal Tenancy Act, 1885.

(2) "Loan" means a loan whether of money or in kind and includes any transaction which is in the opinion of the Board in substance a loan.

(3) "Debtor" means a person who owes a debt or debts, whose primary means of livelihood is agriculture.

(4) "Debt" includes all liabilities of a debtor in cash or in kind, secured or unsecured, payable under a decree or order of a Civil Court or otherwise, whether mature or not, but shall not include trading debts, arrears of wages, or any money for the recovery of which a suit is barred by limitation.

Explanation.—A debtor who temporarily ceases to earn his livelihood by agriculture or is prevented from so doing by reason of minority or sex or age, or bodily infirmity, does not by such cessation, or inability lose his status as a debtor, under this Act.

(5) "Prescribed" means prescribed by rules made under this Act.

(6) "Board" means a Debt Adjustment Board established under this Act.

(7) "Supplementary income" means any income derived by the debtor from any source other than by cultivation of land.

3. (1) The Local Government may, for the purposes of settlement between creditors and debtors as defined in this Act, establish a Debt Adjustment Board for any area in Bengal to which this Act has been applied under section 1(3). Setting of Debt Adjustment Boards.

(2) Such Board shall consist of a Chairman and as many more members as the Local Government may appoint. The Local Government may, for reasons to be recorded in writing, cancel the appointment of any member or dissolve any Board.

(2A) After the dissolution of any Board, the Local Government shall have power to appoint an officer to exercise all or any of the powers conferred under this Act on a Board as may be determined and notified by the Local Government.

(3) The Chairman and every member of a Board so established shall be appointed for a term not exceeding three years, but shall be eligible for reappointment on the expiry of his term.

(4) The Local Government shall have powers to delegate its powers under this section to the Commissioner of a Division.

(5) The quorum of a Board shall be prescribed by the Local Government.

(6) Where the Chairman and members of a Board are not unanimous, the opinion of the majority shall prevail, and if the Board is equally divided, the Chairman shall exercise a casting vote.

4. A debtor or any of his creditors may apply to the Board appointed for the area in which the residence or the major portion of the debtor's landed property is situate, to effect a settlement between the debtor and his creditors. Application for settlement between debtor and his creditor.

5. Every application to a Board shall be in writing and be signed and verified by the applicant in the manner prescribed by the Code of Civil Procedure (Act V of 1908) for signing and verifying plaints. Verification of application.

6. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely:— Particulars to be stated in application.

- (a) the village and union where he resides ;
- (b) the particulars of all claims against him, together with the names and residences of his creditors ;
- (c) the particulars and the original amount of each loan ;

- (d) the particulars of all his property with the khatian numbers of his tenancies and the name or names of landlords, together with a specification of the value of such property and the place or places at which any such property is to be found ;
- (e) the particulars of any supplementary income including loans or investments in which he has an interest ;
- (f) the particulars of any mortgage or other encumbrances of his property.

(2) Every application presented by a creditor shall contain the following particulars, namely :—

- (a) the village or villages where the debtor and the creditor reside ;
- (b) the amount and full particulars of his claim against such debtor ;
- (c) the particulars of debtor's properties together with khatian numbers of holdings and the name or names of landlords as also of any investment made by the debtor and of any mortgage of debtor's property, so far as are known to the applicant ;
- (d) particulars about the debtor's supplementary income so far as may be known to him.

Procedure on receipt of application.

7. (1) On receipt of an application under section 6, the Board shall pass an order fixing a date and place for hearing the application :

Provided that the Board may at any time dismiss the application if, for reasons to be stated in writing, it does not consider it desirable or practicable to attempt to effect a settlement between the debtor and his creditors.

(2) Notices of the order under sub-section (1) shall be delivered to creditors and where the debtor is not the applicant notice of the order under sub-section (1) shall be delivered to him in such manner and in such form as may be prescribed in this behalf by the Local Government.

Attachment of debtor's property.

7A. At the time of making an order admitting an application under section 4 of this Act or at any subsequent time before final disposal under any of the provisions in the Act, notwithstanding anything contained in any enactment for the time being in force, the Board may, either of its own motion or on the application of any creditor, order the attachment of the whole or any part of the property in the possession or under the control of the debtor in his own right.

N.B.—The question was raised whether a clause similar to rules 58-61 of Order XXI of the Civil Procedure Code should be inserted here to provide for the summary adjudication of claims against the debtor, whose property was being attached. Section 19 might give the Board the necessary power to review its order of attachment on good cause being shown, but it was doubtful. If the words "in his own right" do not serve the desired purpose, it might be necessary to qualify possession as "legal" possession.

7B. Where an attachment has been made any private transfer or delivery of the property attached or any interest therein shall be void as against, all claims enforceable under the attachment.

Private transfer or delivery of attached property void.

7C. (1) Where the property is immovable, the attachment shall be made by an order prohibiting the debtor from transferring or charging the property in any way and all persons from taking any benefit from such transfer or charge.

Order of attachment and its publication.

(2) The order shall be published in any manner the Local Government may prescribe.

8. (1) If, after examining the debtor or the creditor, the Board is of opinion that it is desirable to effect a settlement it shall deliver, send or publish in such manner as may be prescribed, a notice calling upon every creditor in case of an application under section 6, sub-section (1) or the debtor in case of an application under section 6, sub-section (2) to submit a statement as prescribed in section 6 and shall post a copy of the same in the Union Board office where the creditor or debtor as the case may be resides. Such statements should be submitted to the Board in writing within a month from the date of posting the copy in the Union Board office.

Notice calling upon debtor or creditors to submit statements of debts.

In case of an application by a creditor under section 6(2), the Board shall in manner prescribed on receipt of the debtor's statement call upon his other creditors as disclosed from the statement to submit a statement as prescribed in section 6(2):

Provided that, if the Board is satisfied that any creditor or the debtor was for good and sufficient cause, unable to comply with such directions within the time fixed, it may extend the period for the submission of his statement of the debts owed to or by him.

(2) Every debt, of which a statement is not submitted by a creditor to the Board in compliance with the provisions of sub-section (1) shall be deemed to be the amount as stated in the debtor's application subject to the provisions of sections 12, 14 or 14A.

9. Every creditor submitting in compliance with a notice issued under sub-section (1) of section 8 a statement as prescribed in sub-section (2) of section 6 shall furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents (including entries in books of account) on which he relies to support his claims, together with a true copy of every such document:

Procedure on submission of statement of debts.

Provided that a decree or order of a Civil Court shall be conclusive evidence as to the amount of the debt to which the decree relates, but the amount may be reduced in accordance with the provisions of sections 12 (1), 14 and 14B.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the debtor in any suit by the creditor or by any person claiming under him.

(4) The Board shall disallow any debt which may be found to be collusive and set forth to defraud other creditors. The reasons for such finding shall be recorded in writing.

Board to attempt amicable settlement.

10. The Board shall call upon the debtor and each creditor to explain his case regarding each debt, and shall use its best endeavours to induce them to arrive at an amicable settlement.

Power of Board to require attendance of persons and production of documents and to receive evidence.

11. (1) Any Board empowered under this Act may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on Civil Courts by the Code of Civil Procedure, and every proceeding before the Board shall be deemed a judicial proceeding.

(2) Any person present may be required by a Board to give evidence or to produce any document then and there in his possession or power.

Power of the Board to dismiss application.

11A. If no award is made under sections 12, 14 or 14B, or if in the opinion of the Board any applicant fails to pursue his application with due diligence, the Board shall dismiss the application.

Award in case of amicable settlement of 60 per cent. of debts, its registration and effect.

12. (1) If the debtor and creditors to whom not less than sixty per cent. of the total amount of the debtor's debts are due come to an amicable settlement, the Board may, following the same principles to the extent it considers equitable, make a settlement of all the debts in writing in the form of an award recording the amounts payable to each creditor and the manner in which and the times at which they are to be paid and the rates of interest payable till the awarded amount is liquidated. Such award shall be read out and explained to the parties present, and shall be signed or otherwise authenticated by the Board.

(2) An award made under section 12(1) shall be registered in the office of the Board and the effects shall be the same as if it had been registered under the Indian Registration Act 1918, and it shall then take effect as it were a decree of the Civil Court.

13. (Omitted.)

14. (1) If for any reason no settlement is made under section 12, but the Board is of opinion that the debtor or any of the creditors has made a fair offer, it may frame an award covering all the debts of such debtor following the principles of fair offers made by certain creditors as regards the dues of the remaining creditors. The award shall contain the same particulars regarding the amounts payable to each creditor and the manner in which and the time at which they are to be paid and the rates of interest payable till the awarded debts are liquidated as provided for in the preceding section.

Award in case of fair offer by any of the parties.

(2) In no case under this section shall a loan be reduced to an amount less than the original principal, except with the consent of the particular creditor concerned.

14A. (1) Notwithstanding anything contained in this Act in all proceedings before a Board, it shall give priority to secured debts, and the mortgage or any lien on a debtor's property shall subsist till the whole of the amount, for which an award has been made in respect of such debt, has been duly discharged.

Priority of secured debts.

(2) All questions of priority between secured creditors shall be determined by the Board in accordance with the priority of the dates on which the instruments creating such securities were executed.

(3) The Board shall arrange the creditors in such order of priority as it thinks fit having regard to the date on which the debts were incurred, and other circumstances which the Board considers relevant and shall make an order for the allocation among the creditors according to their priority as determined and in proportion to the amounts shown against each and shall specify in each case the latest date upon which the instalment is to be paid commencing from the next agricultural year. The Board shall assign payment of the amount of each instalment as far as practicable to two or three creditors to avoid multiplicity of payments.

14AA. (1) If a debtor defaults in paying any amount due in accordance with the terms of an award registered under sub-section (2) of section 12, or under sub-section (1) of section 14, such amount shall be recoverable as a public demand on the application of the creditor, made within ninety days from the date of default.

Recovery of sums due under award.

(2) Where the Collector fails to recover as a public demand any part of such amount, he shall certify that it is irrecoverable and thereupon the award shall cease to subsist.

(3) Where an award ceases to subsist, any amount which was payable under such award, but has not been paid shall be recoverable as if a decree of a Civil Court had then been passed for its payment.

List of landed properties of debtors to be circulated and published.

14AAA. (1) When an award has been made and registered, a list of the landed properties which are the security for the debt will be published by circulation to the landlords of the same and by affixing in the Union Board office.

Effect of sale on default.

(2) Notwithstanding anything contained in any enactment for the time being in force, if no objection to the title or possession of the debtor is filed before the Board within 12 months, or if an objection is filed and disallowed and no civil suit is filed against the decision within 3 months and subsequently the property is sold for default of the debtor to pay his due instalments, the property shall vest in the purchaser.

Adjustment of an insolvent's debt, and award for the same.

14B. Notwithstanding anything contained in the Provincial Insolvency Act, 1920, when a Board after consideration of a debtor's properties and income from other sources and all his debts records a finding that there is no prospect of the debtor being able to repay the whole of his debts even if instalments are spread over 20 years, the Board may reduce the debts with due regard to the value of the debtor's property and other income and fix instalments for the payment of the same according to the paying capacity of the debtor and make an award to such effect. The award shall be drawn up signed, authenticated and registered in the same manner and shall contain the same particulars as laid down in section 12. It shall have the same effect as an award under the same section.

Failure to pay instalment by an insolvent.

15. (1) When an award has been made under the foregoing section if the debtor fails to pay the instalments as fixed in the award and the Board does not think fit to grant extension of time for payment it shall be lawful for the Board to sell the property excluding only that area of land which is actually in use by the debtor for the purpose of his dwelling-house and owned by such debtor, in such manner and after such time as may be prescribed in this behalf by the Local Government.

(2) When all the assets of the debtor have been realised under sub-section (1), arrears of rent shall be a first charge; if there are any secured creditors the Board shall first pay to each secured creditor, the proceeds of any assets held as security up to the secured debt due to him as adjusted by the Board. Where the amount of such proceeds is insufficient to meet the total amount of such debt, the creditor shall rank in respect of the balance of such debt as an unsecured creditor. The remaining sale-proceeds will be distributed rateably.

(3) The Board shall then grant a certificate to the debtor discharging him from any further liabilities with respect to the debts so liquidated.

16. Notwithstanding anything provided for in the preceding sections 12, 14 and 14B no application shall be entertained by the Board regarding any debtor who is a member of a Co-operative Credit Society without the previous approval in writing of the Registrar of Co-operative Societies.

Application subject to approval of Registrar of Co-operative Credit Societies in case of a member of such societies.

17. (1) No Civil or Revenue Court shall entertain any suit or proceeding in respect of—

Bar of civil suits.

- (a) any matter pending before a Board, or
- (b) the validity of any procedure or the legality of any award under this Act, or
- (c) the recovery of any debt dealt with in an award under section 12, 14, or 14B, unless the award has ceased to subsist, before the awarded debt has been paid, or
- (d) any debt disallowed by the Board under section 9 (4).

(2) When an application has been made to a Board under section 4, any suit or other proceeding then pending before a Court in respect of any debt for the settlement of which application has been made shall be stayed, until the Board had dismissed the application or made an award. If an award has been made, the suit shall be struck off with permission to file a new suit, if the award ceases to subsist before the claim as adjusted by the Board is paid.

17A. Notwithstanding anything in the Code of Civil Procedure, no decree passed in any suit or proceeding against a debtor whose properties have been attached under section 7A, shall be executed, provided that—

Bar to execution of a decree by Civil Court.

- (i) if the application under section 4 is dismissed, execution proceedings may proceed,
- (ii) decrees for recovery of debts incurred after an award may be executed after all the claims dealt with in the award have been paid,
- (iii) suits for recovery of arrears of rent may be executed after six months from the date of a notice of the decree being given to the Board,
- (iv) decrees for recovery of debts incurred after an award has been made may be executed on 6 months' notice being given to the Board and on the Board giving a certificate that the loan was incurred for absolutely necessary or remunerative purposes such as the purchase of additional land.

Bar of appeal for revision.

18. The Local Government shall appoint one or more persons with judicial experience in each district where the provisions of this Act have been applied for the purpose of hearing appeals from the decisions of Boards constituted under this Act.

Power of Board to review its order.

19. A Board may, on the application from any person interested, review any order passed by it and pass such order in reference thereto as it thinks fit :

Provided that no order shall be reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of party before Board by agent, but not by legal practitioner.

20. In any proceedings under this Act any party may with the permission of the Board be represented by an agent authorised in writing, but not by a legal practitioner or by a tout declared as such by any competent Court or by the Board.

21. (Omitted.)

22. A copy of an award under section 12 or section 14 or an order under section 14C made by a Board shall be published in such manner as may be prescribed by the Local Government.

Members of Boards deemed to be public servants.

22A. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code.

Allowance of time for limitation.

22B. In calculating the period of limitation for any suit filed in or proceeding before a Civil Court for the recovery of a debt which was the subject of any proceedings under this Act, the time during which such proceedings had continued shall be excluded.

Transfer of the amount of debt in an award or a certificate or an order of adjustment to approved credit organisation.

23. (1) An award made under this Act shall be negotiable and may be transferred by a creditor to any approved credit organisation as may be prescribed by the Local Government under such terms and conditions as may be prescribed.

(2) Notwithstanding anything contained in an award in case of such transfer the debtor shall be liable to pay the amount as shown in the award under such terms and conditions as may be determined by such approved credit institutions and agreed to by the debtor.

Power to make rules.

24. The Local Government may make any rules consistent with this Act to carry out the purposes thereof, and in particular and without prejudice to the generality of the foregoing power may make rules—

(a) prescribing the maximum amount of debt which can be dealt with under the provisions of this Act;

- (b) prescribing the quorum for and regulating the procedure before a Board ;
- (c) prescribing the forms of application under section 6 ;
- (d) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid ;
- (e) prescribing the records to be kept and the returns to be made by a Board ;
- (f) prescribing the allowance to be paid to members of a Board ;
- (g) prescribing the place at which and the manner in which an award shall be registered under sub-sections (2) of section 12 or 14 or 14B ;
- (h) prescribing the forms of award to be made under sub-section (2) of section 12, sub-section (1) of section 14 or of the order of adjustment under section 14B ;
- (i) prescribing the manner of transfer of an award or for an order of adjustment and the payment of the amounts covered by such award or certificate or an order of adjustment by any approved credit organisation to a creditor transferring it ;
- (j) prescribing the procedure for sale of properties of an insolvent declared under this Act, the manner of distribution of sale-proceeds and the form of certificate of discharge to be granted to an insolvent under sub-section (3) of section 16 ;
- (k) prescribing the method of serving or publishing the notices prescribed by any section of this Act ;
- (l) prescribing the procedure to be followed by the Appellate Courts appointed under section 18.

25. In making any rule the Local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues.

Penalty for
breach of
rules.

APPENDIX V.**Extract from Notes on Economic Enquiry in the Rangpur District
by the Settlement Department.**

An enquiry was made of the economic condition in 11 villages of 503 families with 3,272 persons giving an average of 6.4 persons per family.

The classification of families according to standard of living is difficult and there was no uniformity. However from the figures as they stand one-ninth of the villagers are living in starvation, *i.e.*, they have just sufficient to keep themselves alive and no more or of whom it can be said that there is definite evidence of under-feeding or real lack of clothing. This probably represents a fairly pessimistic view of the standard of the country. Against this, between one-third and one-quarter of the families representing one-third of the persons can on any view be described as in comfort.

Those who have less than 1 acre of khas land may be styled landless. They can have little land besides their homesteads. They amount to a quarter of families and a little less than one-fifth of the individuals.

The compilation of figures shows that 29 per cent. of the families are free from debt. This is a more serious condition of indebtedness than that found in Faridpur by Mr. Jack. In that district about 1906-10, 55 per cent. of families of cultivators and 59 per cent. of all families were found to be free from debt.

Debt in some measure is determined by credit. The fact that in every village except one the proportion of families free of debt exceeds the proportion of individuals show that the "free of debt" class contains more than a proportionate share of small families while although the landless class form only one-quarter of the total families they form three-eighths of the families free of debt. Only four out of the twenty-six big family groups possessing 10 or more acres of khas land are free of debt.

Any opinions as to why indebtedness is now more widespread in south-east Rangpur than it was in Faridpur 25 years ago, must necessarily be based on mere speculation. One may surmise that the present enquiry took place at a time when debt was very prevalent. A period of high prices has been followed by three or four years of low prices; prices of jute and paddy being only a third of what they were five or six years ago. Before cultivators adapted themselves to the new low level of prices they certainly took recourse to loans to maintain their expenditure and in the first two years of falling prices there was still ample cash in the hand of money-lenders, available for lending.

The total debt is really an artificial figure. Villagers were asked what loans they had taken. Then after learning the rate of interest and the amount said to have been repaid, the present value of the debt was worked out by simple arithmetic. By this method, a sum of Rs. 40 borrowed in 1928 at 48 per cent. per annum and Rs. 25 repaid, is calculated at Rs. 130, and Rs. 50 borrowed in 1928 at 37½ per cent., and Rs. 18 repaid, as Rs. 143. These rates of interest, which ordinarily vary from 3 per cent. per month to 1 anna in the rupee per month (36 per cent. to 75 per cent. per annum) can only be regarded as nominal. It is unlikely that any Court would decree such

sums as are due according to the strict letter of the bonds, and Mahajans certainly compound with their debtors for much smaller sums. The original principal of outstanding loans was Rs. 66,000; while even after deducting sums repaid the present nominal value is Rs. 1,10,000. Probably the effective debt—what the money-lenders reasonably expect to receive—is not much more than half this sum.

One small matter calls for note. When calculating the present value of debts, the outstanding value of complete usufructuary mortgages was calculated at a share of the capital sum borrowed, proportionate to the outstanding period of the mortgage. Thus if Rs. 50 was borrowed on complete usufructuary mortgage for ten years from 1336 to 1345, the present value was shown as Rs. 25, *i.e.*, $5/10 \times 50$.

Causes of debt.—Circle Officers were asked to find out the reason for borrowing each loan. It is well known that many loans, or rather acknowledgments of debts, are not new money, but only renewal of old loans. Officers were asked to discover the causes of the original loan; and this instruction was usually followed. For loans totalling about one-eighth of the present value, no cause was given, or the reason was "to pay off old loans." Of the rest, more than a third is described as incurred for purchase of food, clothing or household expenses. More than a fifth is said to have been borrowed because of marriages. Purchase of land or payment of nazar, and purchase of cattle are the next largest classes of debt and these four groups together account for four-fifths of the total debt. Immediately, the query arises, "can we trust the villagers' own statements about the reason for borrowing?" It is not possible to obtain any evidence to check their statements and it can only be said that at any rate they have given consistent statements about the cause of debt to five different officers. The biggest cause of debt "food, clothing, and household expenses" calls for comment. One Circle Officer thinks that this is a reason for borrowing, which does not occasion any shame; and such debts are mentioned freely, where others may be concealed. But such borrowing is bound up with the agricultural system of the area. This is a paddy importing area. Jute is sold, and articles purchased when there is cash in hand. Paddy, however, is bought on credit throughout the year, and if the cultivator has not the cash to pay off the debt, he takes the easy course of executing a hand-note. This is another reason for believing that much of the rural debt, although expressed in cash values, is not really borrowing in cash. It is also likely that the sums so borrowed by account with mahajans include some loans taken for other purposes, such as payment for rent. But it is not suggested that all the borrowing is in kind; and for reasons given later, it seems likely that at any rate before the slump, or in the early days of falling prices, there was considerable cash borrowing. Articles such as oil, dal, and clothes have to be bought for cash down. In days of prosperity, much of the expenditure on these must have been done with borrowed money. Figures show how frequently marriage ceremonies occasion debt, and also that litigation considered in relation to the country as a whole is of no particular importance as a cause of debt, though individual families may be ruined by litigation. In all, only 38 families out of 508 which formed the subject of the enquiry, said they had ever incurred any expenditure for litigation. Seventeen of the 38 lived in the two villages which were nearest to Gaibandha.

Of the outstanding debts, the greater part was borrowed in the three years 1928, 1929 and 1930. Since then the amount of borrowing has slackened off. The villagers were asked to give their debts. They naturally described the debt as it stands after the last hand-note executed, or after the latest composition with their creditors. It is never possible to distinguish how much debt is new money and how much is in satisfaction of existing debts by execution of fresh hand-notes, but from what is known of the amount of money available in different years it is reasonable to assume that many of the loans taken between 1928 and 1931 were new money. Loans incurred before 1928 seem to have been nearly all satisfied, and since 1931 there has been little borrowing. The debt which must now be settled is that incurred in the period 1928 to 1931. This is not likely to be liquidated by fresh borrowing from the mahajans and rural banks which were the main sources of credit in the past. Leaving aside the possibility of any large scale debt relief under Government auspices, it is probable that creditors will compound the debts on terms which are fair and equitable to both parties. Signs are not wanting that this is actually being done. A fair proportion of the loans which were stated to have incurred in 1934 are known to be compoundings of previous debts,—commonly on the “Kistibandi” principle. In a “Kistibandi” settlement the debt is fixed at a certain sum which is to be paid off in so many instalments without further interest. This indeed, is not always a method of settling loans; sometimes a new loan is given on terms that it will be paid off in instalments. There is no provision for interest, but the sum mentioned in the bond is greatly in excess of the actual sum borrowed. However Rs. 3,411 out of the Rs. 4,521 said to have been borrowed in 1934, is fairly certainly settlement of old loans.

The Rent-situation.—Figures average out at 2½ years’ rent in arrears at the end of 1340 (rents for 1340, if unpaid were classed as arrears). But it must not be understood that no rent has been paid for the last 2½ years. These are arrears which have accumulated gradually, and rent is still paid in part.

Again, it is certain that many cultivators are even, in the best of times, in arrears with their rent. During field work, or attestation one commonly finds receipts given in 1335 for rent due in 1333 or even earlier, and this at a time when the prices of agricultural produce were the highest ever recorded.

In mouza Manmanthapur the sum nominally payable on debts was Rs. 1,097, but only Rs. 200 were paid in 1340 B.S. In Kachua, out of Rs. 2,379 due, only Rs. 154 is reported to have been paid. This shows that if the sums payable on debts according to the stipulation in the bonds were actually paid, cultivators would pay more to mahajans in interest, than they pay to their landlords in rent. Actually, they are now paying their landlords much more than they are paying their mahajans.

Family budgets.—Figures given for family budgets must be accepted with caution. Compilation is beset with traps for the unwary, but all officers worked on the same principle. They endeavoured to find out the family consumption of rice, and then entered the value, in current prices, of the paddy equivalent. Dal, mustard oil, spices, salt, tobacco, clothing and kerosine are normally bought for cash. Here the usual, and safest method of proceeding was to find out how much was spent

at every hat, and then to multiply until the annual expenditure was found. This method lends itself to magnifying every error, but produced notably consistent results by the different officers. For fish, meat, vegetables, milk and betel nuts it was tried to proceed on the principle of asking how much was bought at every hat, and for how many months. Then it was tried to find out how much was obtained by own production, or how much fish was caught by the family, and then was assigned a value to the quantity, adopting current market prices. This may not be strictly accurate, but is the best possible. In Faridpur Mr. Jack thought it impossible to give a cash value to the fish caught and consumed by the family. The officers have done the best they could by asking what would have been the price of the fish if bought; or for how many months in the year fish was bought and then giving a proportionate value to the fish caught.

The importance of rice in the cultivators' diet is apparent. The cash value of rice consumed is everywhere (except one mouza) given at from two-thirds to three quarters of the cash value of the total food stuffs consumed.

Excepting rice, the expenditure on other items of recurring expenditure, clothing is evidently the biggest item. Tax has been shown as a recurring charge as even now unlike rent and interest it is paid regularly. If in any village there is much unpaid or irregular payment the cause will certainly be not economic difficulty, but slackness among the collecting authorities. At an average of 4 annas per head per year, the Union Board rate only amounts to about "1/64" to "1/80" of the expenditure on food.

The article which shows the most consistent level of consumption is salt. The consumption works out at 9 or 10 kutchas seers per head per year (including salt for cattle). The demand is completely inelastic.

No figures have been given for item of "spasmodic" expenditure, such as cost of births, marriages and deaths, and cost of house building and repairs. The Faridpur method was followed, when averaging these costs to one year. It was assumed that one birth, one marriage and one death would occur to every member of the family in 30 years, and the aggregate cost of one of each class of ceremony for each member was divided by 30 to give an annual figure. The method cannot be vouchsafed to be actuarially sound; but it was peculiarly liable to error in the circumstances of the present, when standards of expenditure have fallen heavily in the last 5 years. People are at best vague when giving the cost of a wedding. Some may give the amount which they would like to spend or think ought to be spent, and others are guided by their ideas of what was spent in the last wedding in the family. This may have been 5 years ago, when there was much more money available.

Similarly no total of "income" or expenditure has been given. Figures show a consistent excess of expenditure over income; even if allowance be made for non-payment of the rent and interest which is due according to the record-of-rights and the terms of bonds.

It is believed that villagers consistently tend to underestimate their income and some of the richer may for "prestige" exaggerate their expenditure.

Note for the Statistical Sub-Committee by the Secretary to the Board of Economic Enquiry.

Regarding the problem of rural indebtedness, Government have referred under paragraph 4 (i) of Resolution No. 6159-Com., dated the 1st December 1933, concrete suggestions in broad outlines for conducting enquiries by the Board of Economic Enquiry in the Note for the Board, which has been circulated.

These are—

- (1) Prevention of extravagance in new borrowing.
- (2) The liquidation of existing debt by—
 - (a) Debt conciliation on voluntary basis of debts up to Rs. 1,000.
 - (b) Compulsory adjustment of accumulated interest.
 - (c) Rural Insolvency Act.
- (3) Reorganisation and expansion of co-operative societies including land mortgage banks on paper lines, and setting up of other approved credit institutions to take over adjusted debts.

It has been pointed out that the schemes suggested above will depend entirely on two essential features, viz.,—

- (a) Existence of sufficient surplus to pay off the adjusted debt.
- (b) Existence of co-operative banks, or other approved credit institutions to take over the adjusted debt.

The Sub-Committee is concerned with enquiry under (a).

Statistical Registers, Reports and Lists containing general information.

There are registers in each district office based on the Revenue Survey in the middle of the last century showing the villages under each pargana and the area appertaining to each separate estate within the village as also the villages or portions of them appertaining to each estate, the area of each estate lying within each village, the land revenue for each estate. In the Land Revenue Administration Reports published annually by the Government the total number of estates permanently and temporarily settled and also under direct management in each district, the land revenue and road and public works cess payable, the amounts paid, the amount of arrears, the prices fetched at public auction and various other information is given. The reports on the management of the Court of Wards also published annually give the rentals, collections and arrears, debts and repayment of each estate under its management. The Annual Report of the working of Co-operative Societies in Bengal gives information regarding (1) number of societies, (2) number of members, (3) amount of loans, (4) loans due by individuals, (5) overdues and (6) repayment by members and other details.

Various laws have been passed for codifying the rights and status of cultivators, the latest amendment of the Bengal Tenancy Act gives them right to transfer their lands without the consent of landlords. The provisions for enhancements of rents of cultivators are mainly on the basis of higher rates prevailing for similar lands in the neighbourhood

and in consideration of the rise in prices of the staple food during the currency of the present rent. For the investigation of the latter by Courts a Statutory Price List of Staple Food-crops in the Local Areas of Bengal is published quarterly and an annual compilation made therefrom by Government in the Revenue Department under section 39 of the Bengal Tenancy Act. This is only for "rice" which is the staple food-crop of Bengal.

The Director of Agriculture publishes weekly with the Weather and Crop Reports the price of common rice for the subdivisional stations of districts. He also publishes a fortnightly Prices Current (retail) of common rice and salt in some specified marts of every district. A fortnightly Prices Current (wholesale) is also published by him of some important marts in the Presidency of the prices of paddy (unhusked rice)—best and common, rice—best and common, wheat, raw cotton, coal, raw jute, and gur (sugarcane). All these prices are published in the Government *Calcutta Gazette*. The Season and Crop Report gives the harvest prices of the following crops for each district, viz., winter and autumn rice, wheat, barley, gram, gur (unrefined), cotton, linseed, rope and mustard, jute and tobacco leaf.

The agency employed for the collection of statistics is the same for both departments, who are responsible local officers. Their duty requires them to visit every mart personally and ascertain the information from respectable shopkeepers.

To safeguard the interests especially of cultivators, who generally hold no leases for their lands, a record-of-rights, district by district, was undertaken to be prepared by Government since 1900 and these will be completed within the next 3 or 4 years. The record-of-rights involves a survey and enquiry of each plot of land, preparation of a record showing the fields appertaining to each tenancy, the classification of land of each plot, the rent paid to the landlord, the rights under which the tenancy is held and other details of the tenancy. Similar record is prepared for every tenure-holder under a proprietor and for the proprietor as well, thus giving a comprehensive record of all interested in land. During the course of preparation of record-of-rights of a district various items of statistical information have been collected, for the district as a whole.

These are mainly (1) the different classifications of lands and the area under each, (2) the area under different crops, (3) the statistics of land tenure, i.e., the distribution of land under different classes of owners, the incidence of rent and cess, (4) Agricultural stock statement showing the number of ploughs, carts, boats, etc., and the live-stock.

Report and Enquiries regarding economic position with special reference to indebtedness.

In some of the earlier operations, detailed statistics have been collected regarding the economic condition of the people of the districts—the most detailed of these is that of Faridpur the main results of which have been collected in Major Jack's book "Economic Life of a Bengal District." Most of the original statistical forms and the detailed tabulation from which the tables in the book have been compiled covering over one hundred volumes are in the Record-room of the Faridpur Collectorate. Detailed enquiries regarding indebtedness were

also made in Dacca and Jessore districts. Settlement Reports of Dacca, Mymensingh, Midnapore and Jessore of the three districts of East, West and Central Bengal will show the estimate of the economic position by the Settlement Officers. Crop-cutting experiments were conducted by officers for ascertaining the yield and the results further verified by reliable enquiries from cultivators themselves. Typical family budgets of cultivators were also prepared in course of preparation of record-of-rights. All these informations have been incorporated in the Final Reports of Settlement Operations of districts. It is not possible to enumerate the different heads of subjects dealt with in these reports, which are all printed. At present the Final Reports of following districts with years of operation are available:—

- (1) Bakarganj (1900-08),
- (2) Faridpur (1904-14),
- (3) Dacca (1910-17),
- (4) Mymensingh (1908-19),
- (5) Midnapur (1911-17),
- (6) Bankura (1917-24),
- (7) Noakhali (1914-19),
- (8) Tippera (1915-19),
- (9) Jalpaiguri (1906-16),
- (10) Rajshahi (1912-22),
- (11) Pabna (1920-29),
- (12) Bogra (1920-29),
- (13) Nadia (1918-26),
- (14) Jessore (1920-24) and
- (15) Khulna (1920-26).

The Settlement Reports of Murshidabad, Birbhum and Chittagong are under preparation and that of the 24-Parganas has not yet been published. Settlement Operations are in progress in the districts of Burdwan, Malda, Hooghly and Rangpur and Dinajpur and Howrah will be taken up next year.

Information regarding economic position has been collected from time to time.

In 1926, Mr. Burrows, the then Collector of Faridpur, made an intensive enquiry of a village in Faridpur district at the instance of the Royal Commission on Agriculture. An extract from his report regarding indebtedness is appended to the Report of the Commission.

The Bengal Banking Enquiry Committee had an intensive enquiry in 1929 through non-official and official agencies about the economic position of agriculturists, in selected areas of certain districts. The forms filled in by the enquirers are available. Apparently the Committee did not make much use of the results as they "suffered somewhat in precision and thoroughness." The results of the intensive enquiry in one village Karimpur of the Bogra district have been utilised in the Report of the Committee.

An enquiry was made by the Collectors in November of 1933 and March of 1934 regarding the stocks of crops held by cultivators and generally into their economic position.

The latest enquiry on a detailed basis have been called for in Form No. 1 and No. 2 which were circulated to all the members of the Board at the first meeting. It has been arranged that for the 25 plains districts in Bengal, there will be enquiries made in about 200 villages. The enquiry will be limited to the families of persons paying fixed rents or having rights of occupancy in land as these classes of people form the major portion of the agricultural population and also they have good security to offer on which mortgaged loans may be given.

It will be for the Sub-Committee to consider which of the information contained in statistical Registers, Reports, Lists and Forms may be utilised directly or indirectly for the purposes of their enquiries regarding the proportion of cultivators with the requisite margin. The Sub-Committee may indicate the lines on which any of these should be tabulated and collated and devise the form for such tabulation and collation. If, however, the available materials are found to be insufficient to form an estimate of the proportion referred to in the Government Note, the Sub-Committee may indicate if further investigations are necessary. Also if the materials available will not serve the purpose of arriving at the required estimate, it may suggest in what other form information should be collected and the agency for conducting the enquiry.

Note for the Sub-Committee to investigate the possibility of debt conciliation and liquidation amongst agricultural population (by the Secretary, Board of Economic Enquiry).

The object of this note is to summarise the legislations and the administrative measures introduced from time to time for dealing with indebtedness in general, and of agriculturists in particular. The executive measures undertaken have also been dealt with. Their defects and shortcomings have been prominently brought forward in paragraphs 12 to 19 with a view that the Sub-Committee may, in devising legislative and executive measures for dealing with the question, advise as to the means by which they can be avoided or rectified.

(A) General Legislations.

I.—History and legislation regarding Money-lending.

2. *Rule of Damdupat.*—According to Hindu Law, the rule of damdupat is that the interest exceeding the amount of the principal cannot be recovered at a time, though the total amount paid from time to time may far exceed the capital. This rule of law is not now applied to the whole of India. It is applied to the Presidency of Bombay, the Provinces of Berar and Sindh, Santal Parganas and the portion of the City of Calcutta within the jurisdiction of the Original Side of the High Court. But it does not apply to the Presidency of Bengal outside the area mentioned above. This rule is not applicable in Madras.

The rule of damdupat only exists so long as the relationship of debtor and creditor exists but not when the contractual relation has come to an end by reason of a decree.

The principle of *damdupat* is not applicable to a decree for paise mortgage nor to interest accruing after the institution of the suit. The interest on arrears may be capitalised by subsequent agreement, but prospective interest cannot be capitalised. The rule of *damdupat* is not affected by the Transfer of Property Act and the Indian Contract Act or the Acts relating to interests.

But it is so restricted that there is no limit to the amount of interest if the interest be paid in smaller sum than the principal. In this view, a judicial officer urged before the Provincial Banking Enquiry Committee that the rule to be really effective a creditor shall never be able to receive more than double the amount advanced and it should be made a Statutory Act (*vide* Replies to Special Questionnaires at page 27 of the Bengal Provincial Banking Enquiry Committee's Report, Volume III—Evidence).

The rule of *damdupat* was accepted in principle in enacting the Bengal Money-lenders' Act, 1933. In section 4 it is enacted that in case of loan prior to the commencement of the Act, the Court shall limit the amount of arrears of interest to the amount of principal unless there be satisfactory reasons for not enforcing the claim earlier. Section 6 of the Act, which comes into force throughout the Presidency from the first of July 1934, enacts that no Court shall, in respect of any loan made after the commencement of the Act decree on account of arrears of interest a sum greater than the principal of the loan and an amendment to insert "together with interest already paid" was rejected.

3. *Rule for adjustment of debt in 1772.*—Even at the beginning of the British Rule we find that prevalent usury in the province caused concern to the administrators. On taking over the administration of the province, Warren Hastings saw its evil effects and in 1772 the Committee of Circuit framed the following rule regarding adjustment of debts and rates of interest:—

"That in adjusting the claims of old debts it shall be observed as a rule that they bear no further interest after such adjustment but that the amount shall be payable by *kistibundee* (instalment) according to the circumstances of the party, and as the rates of interest hitherto authorised by custom have amounted to the most exorbitant usury, the following rates are now established to be received and paid as well for past debts as on future loans of money, viz., on sums not exceeding 100 rupees principal, an interest of 3 rupees 2 annas per cent. per mensem or $\frac{1}{2}$ anna in the rupee. On sums above 100 rupees principal, an interest of 2 rupees per cent. per mensem. The principal and interest to be discharged according to the conditions of the bond and all compound interest arising from an intermediate adjustment of accounts to be deemed unlawful and prohibited; when a debt is sued for upon a bond which shall be found to specify a higher rate of interest than the established rates, the interest shall be wholly forfeited to the debtor and the principal only recoverable; and that all attempts to elude the law by deductions from the original loan under whatever denomination shall be punished by a forfeiture of one moiety of the amount of the bond to the Government and the other half to the debtor."

4. *Regulating Act of 1774.*—By a Regulating Act of 1774 (13 Geo. Ch. 63), the maximum rate of interest as applicable to European British subjects in India was fixed at 12 per cent.

5. *Bengal Regulation of 1780*.—The rates of interest were reduced to twelve per cent. and twenty-four per cent. by a regulation of 1780. The regulation fixed the rate of interest irrespective of stipulation of higher or lesser rates of interest. The full advantage of the regulation for the purpose of adjustment of debts was, however, only taken by land-owners who prayed for adjustment and we find British officers deputed in the district of Mymensingh to adjust debts between zemindars and money-lending Sannyasis. One noticeable point in these adjustments is the simplicity of procedure by which they were arrived at. The officers called for accounts from both parties and after hearing them and examining the papers produced, recorded their decisions in a tabular statement showing the claims of the creditor and debtors and the decision which was a decree.

The compulsory adjustments were, however, only of the interest in cases where it exceeded the rate laid down in the Regulation. The Regulation was embodied in one of the series of Regulations passed in 1793.

6. *Act XXVIII of 1855*.—The laws against usury were repealed in England in the middle of the nineteenth century and following its wake the usury laws in India were repealed in 1855 by Act XXVIII of 1855. The law of damdupat remained in force in the localities mentioned before.

7. *Indian Contract (Amendment) Act of 1879*.—Subsequently, however, the unrestricted usury attracted the attention of Government. By the Indian Contract (Amendment) Act of 1899, the courts could give relief to debtors in cases of unconscionable bargains on proof of undue influence or where the bargain was by way of penalty.

8. *Usurious Loans Act of 1918*.—The Usurious Loans Act of 1918 empowered a court, where there is reasonable ground to believe that the rate of interest was excessive and the transaction was substantially unfair, to reopen the transaction and relieve the debtor of excessive interest even though there is an agreement to close previous dealings and open a new account.

9. *Usurious Loans (Amendment) Act of 1926*.—The Usurious Loans (Amendment) Act of 1926 empowered suits by debtors and for redemption of securities. The period of limitation was extended to twelve years. These are the all-India legislations directed against usury.

(B) Provincial Legislation.

10. Provincial Legislations against usury and regularisation of money-lending are summarised below:—

(1) *The Punjab Regulation of Accounts Act, 1930*.—It prescribes the keeping of accounts by creditors and the supply of statements of these accounts every six months to individual debtors.

(2) *The Bengal Money-lenders' Act, 1933*.—The Act applies the rule of damdupat as stated before. It lays down that rates of interest above 15 per cent. in case of secured loans and 25 per cent. in case of unsecured loans or where there is a stipulation of rest at intervals of less than six months are to be presumed to be excessive under Usurious Loans Act. It prohibits the recovery of compound interest at rate of more than 10 per cent. This Act enables the debtor to obtain full particulars of his debt from his creditor.

(3) *The Usurious Loans Central Provinces (Amendment) Act, 1931.*—It follows the Bengal Act.—It lays down that where the rate of interest is more than 18 per cent. in cases of unsecured loan or more than 12 per cent. in case of secured loans or where there is a stipulation for rests at intervals of less than six months the rate of interest may be deemed to be excessive. The rate for future loans has been put at 10 per cent.

(4) *The Assam Money-lenders' Act of 1934.*—The Assam Money-lenders' Act of 1934 has been recently passed. It is on the lines of the Bengal Act but the rates of interest have been reduced.

Similar provincial legislations are in contemplation in the Central Provinces, Bombay and the Punjab.

(C) Special Legislation for Agriculturists.

11. Special Legislations have also been undertaken from time to time in other provinces to protect agriculturists. The most important of these are the Deccan Agriculturists' Relief Act of 1879 and the Punjab Land Alienation Act of 1900.

The Deccan Agriculturists' Relief Act of 1879.—As to the working and amendments of the former, a reference is invited to Enclosure A which contains extracts from the Report of the Royal Commission on Agriculture.

The following extract from the report of the Committee appointed by the Bombay Government in 1920, to consider the repeal of the Deccan Agriculturists' Relief Act is interesting:—

“It must be acknowledged that since 1912 the economic condition of agriculturists as a class has much improved and it promises to improve still more as the country advances in industrial development. We think, therefore, that the time has come for bringing agriculturists under the provisions of the law which apply to other classes.”

12. *The Punjab Land Alienation Act of 1900.*—The Punjab Land Alienation Act of 1900 came into force in 1901. Its main object was to prevent the small peasant proprietor being expropriated by the village money-lender. By it the non-agriculturists classes have been greatly restricted in the acquisition of land, they are not allowed to buy land from a member of the agriculturist tribe nor may they take it in mortgage from the latter for more than twenty years. At the end of the period the mortgage automatically lapses without payment and so the nominal value of a debt secured by mortgage varies with the age of the mortgage. Mr. Darling remarks that there is general agreement that this form of mortgage is disliked by all but the idler cultivators as it involves parting with land for a long period and debars an owner from taking advantage of the rising value of land to redeem a portion of it in a year or two. But it has given opportunity to agriculturist money-lender. The *Sahukar* deprived by the Act of the security of the land can only lend up to the limit of what can be repaid from the produce; but the agriculturist money-lender to whom the Act does not apply can afford to lend up to the value of the land. The latter is therefore in a stronger position of the two; and ultimately he is the more formidable for his object is the land and to obtain it he will press his client till he is compelled to sell. On the other hand the *Sahukar* depending solely on the produce hesitates to drive a client to extremes lest he should give up-producing. At first after the passing of the Act, there was restriction of loan and consequent decrease of debt (from

Rs. 16 crores to Rs. 9 crores decades 1893-1902 to 1903-12) but with advance in prices and owing to the growth of agriculturist money-lenders the situation adjusted itself and the debt rose to Rs. 30 crores in the decade 1913-22. Thus "with the tendency of all protective legislations to defeat its own object, the Act fostered the growth of the agriculturists money-lender and borrowing soon became easy as ever."

13. *Restriction of transfer of land under Chapter VIIA of the Bengal Tenancy Act.*—Restriction against lease or transfer of land by aboriginal tribes as contemplated in Chapter VIIA of the Bengal Tenancy Act was enacted in 1918 but it affords no real protection. The evasion is effected by the aboriginal leaving the land under pressure of the money-lender and executing a deed of relinquishment in favour of the landlord and then the money-lender or the intending purchaser gets settlement from the landlords. So in the end the value which could have been secured by open sale is not obtained. In Malda, the application of the Chapter amongst the Santals and the Oraons has failed because to save distraint of their crops on account of debts, the Collector had to agree to usufructuary mortgages.

14. *The United Provinces Agriculturists' Relief Act, 1934.*—The United Provinces Agriculturists' Relief Bill, 1934, has been passed by the Legislative Council but has not yet received the assent of His Excellency the Governor. Its main provisions are:—

- (i) To empower courts when passing decrees against agriculturists to fix instalments payable on fixed dates which may extend over a period of four years in the case of small agriculturists and over twenty years in other cases
- (ii) To limit the rate of interest admissible after a decree has been passed to 2 per cent. in certain cases and 3 per cent. in other cases.
- (iii) To empower courts to fix instalments even in cases in which decrees have been passed before the passage of the Bill.
- (iv) To restrict mortgages with possession made after the passage of the Bill to mortgages which give possession with the right to all the profits of the land for a fixed period not exceeding twenty years on the condition that that period of possession will satisfy the debt.
- (v) To facilitate the redemption of mortgages.
- (vi) To limit the rates of interest on loans taken after the passage of the Bill to rates notified by the local Government as the prevailing rates. The rates to be so notified will be based on, though they will exceed, the rate at which of the local Government of India.
- (vii) To limit the rates of interest recoverable on loans taken since 1st January, 1917.
- (viii) To prescribe rates of interest recoverable on loans after a sum equal to 100 per cent. of the principal in the case of secured loans and 150 per cent. in the case of unsecured loans has been realised or has accrued as interest.
- (ix) To empower courts to reopen decrees passed on loans incurred since 1st January 1917, and to pass amended decrees for the amount payable if the interest were limited as in (vi) above.
- (x) To require creditors to maintain a correct account for each agriculturist debtor for each loan separately and to supply the debtor annually with a statement of such account.

15. As has been stated in paragraph 2 of the Government Note, these legislations cannot afford a complete solution of the problem of rural indebtedness, although they should relieve some of the worst evils of uncontrolled usury.

Paragraph 4 of the Government Note regarding prevention of extravagance in new borrowing is for prohibition by legislation, recovery of any charges in regard to new debts by the legal process of the sale of the land and crops belonging to the debtor. But the provisions of such restrictions are not to apply to new loans granted by Co-operative Credit Societies, Land Mortgage Banks and other approved organisations. It is presumed that the principle underlying the suggestion is that while restrictions are to be imposed on new loans from outsiders, the credit of cultivators which has been enlarged greatly by the transferability of holdings is not to be decreased in any way and they will be able to take loans for legitimate and necessary purposes from approved credit organisations at fair rates of interest. It is the restriction of improvident borrowing from unscrupulous money-lenders which is to be aimed at by legislation.

16. Inculcation of the principles of thrift by co-operative organisations had not any marked effect on the members of the Rural Co-operative Societies as will be seen from the following summary of replies of some of the Central Co-operative Banks regarding their constituent rural societies.

In the case of Khulna Central Co-operative Bank, 'as regards the total amount of indebtedness of the members of the rural societies whereas the outside debt had been reduced, the total indebtedness has not been reduced.' This is said to be due to the fact that 'the landed properties on the whole have been increased.' But at the same time it is remarked that although the Central Bank does not allow members of affiliated societies to raise loans from outside they do it surreptitiously.

The Nalhati Central Bank reported that all debts of 41 rural societies were paid off by Central Bank in different periods, but a regrettable feature was that all of these societies had incurred debt again.

The Dacca Central Bank reported to have reduced the debts of 6,685 individual members of rural societies to outside creditors from Rs. 7,65,299 to Rs. 4,91,894. The Comilla Central Bank reported to have minimised borrowing by members.

It is for the Sub-Committee to consider on what lines legislation should be undertaken—either by the amendment of present legislation or by new legislation—for restriction of new borrowing generally or supplementary to any legislation for debt adjustment.

II.—*Debt Conciliation on a voluntary basis.*

17. In paragraph 6 of the Government Note, debt conciliation on voluntary basis has been dealt with. The operation hitherto undertaken in the different provinces has been like ordinary arbitration except that it is carried on by Government officials; the proceedings have no support or authority from any legislative enactment. An account of such operations in the Central Provinces is given in the Indian Banking Enquiry Committee's Report. It will be seen that creditors often repented of their generosity but probably owing to Government officers making the settlement did not resist from the settlement.

18. *Settlement with money-lenders by the Co-operative Department.*—An interesting note on "Settlement with Mahajans" in the Pabna district is given in the Bengal Co-operative Journal, 1919. The principal was Rs. 13,406-5-9, interest Rs. 12,152-11-9, total Rs. 25,559-1-6. By settlement the creditors accepted Rs. 10,136 in cash, Rs. 5,658-15-6 to be paid by instalment. The writer remarked:—"The co-operative worker finds the Mahajan quite content sometimes to accept the original principal in cash either in one sum or by the instalment system, because it gives him fresh ready money for investment."

19. *Redemption of mortgages amongst the Mundas.*—Redemption of mortgages was once undertaken by the Bengal Government for the Mundas. An account of this from the Bihar and Orissa Banking Enquiry Committee's Report is summarised below:—

In 1904, an enquiry was undertaken by Government of Bengal regarding usufructuary mortgages by Mundas in the Ranchi district. They were classified under two heads—

- (a) mortgages, the amounts of which are less than the value of the lands mortgaged;
- (b) mortgages the amounts of which exceed the value of lands mortgaged.

No action was proposed to be taken against (b), as regards (a), Government proposed to distribute loans under the Agriculturists' Relief Act. The Deputy Commissioner did not recommend the scrutiny of debts with a view to reducing those which were found to be exaggerated on the ground that legislation would be required and the general result would be unsatisfactory. In actual working the cases in which debt exceeded the value of land and in which the term of mortgages expired or was about to expire were taken up. The lands were mortgaged to Government and the recovery was by annual instalment, the period of repayment varying with the proportion that the debt bears to the value of the holding.

It was found that for an area 1,250 square miles, the total amount of the mortgages was Rs. 4,73,580. In cases involving Rs. 85,505 the estimated value of land exceeded the amount of the mortgage.

During the first year (1906) Rs. 70,191 was distributed as loans. During the next year Rs. 36,000 was distributed. During the third year Rs. 17,178 was advanced. In 1910, only Rs. 4,112 was actually distributed. In 1910, the Deputy Commissioner doubted the value of the scheme. He pointed out that Rs. 1,48,368 had been advanced. Out of the total amount due in repayment and interest over 41 per cent. stood unrecovered. The collection was mostly by certificate procedure. The Subdivisional Officer of Khunti reported that the loans have entirely failed in their object.

20. *The Central Provinces Debt Conciliation Act, 1933.*—Copy of the Central Provinces Debt Conciliation Act is given in Enclosure.

21. *The Madras Debt Conciliation Bill.*—The Madras Debt Conciliation Bill is intended to apply to agriculturists whose debts exceed Rs. 150 and is to be restricted in the first instance to debtors whose debts aggregate to below Rs. 25,000. Leave to introduce this Bill was granted by the Legislative Council on the 18th March 1934. It follows generally the lines of the Central Provinces Debt Conciliation Act.

22. Several points have been suggested in the Government Note in this connection for the consideration of the Board. These are:—

- (1) The desirability of such legislation.

It may be stated that necessity for legislation is to give powers to the agency employed for the purpose of debt conciliation to bring together the parties, to have their statements as also of witnesses and lastly to record the agreement arrived at and register it so as to give it validity.

- (2) The agency for such conciliation.

The agency in the Central Provinces is a debt Conciliation Board set up by Government. Some competent authorities in this province are of opinion, that instead of a Board the work can be done more expeditiously by itinerant Revenue Officers of the status of Sub-Deputy Collectors conversant with local conditions.

- (3) The amount of debt that should be taken up by the conciliation authority.

The proposal is to restrict conciliation of debt up to Rs. 1,000.

- (4) The area that should be selected for the operation of the Act.

III.—*Compulsory Reduction of Interest.*

23. In paragraph 7 of the Note, Government have referred the question of compulsory reduction of interest. The scheme set forth provides for legislation under items (c) and (d). It is for the Sub-Committee to consider the lines on which legislation shall be undertaken. The Central Provinces Debt Conciliation Act provides for certification of debt in case there be no voluntary agreement between the parties, and the amount of debt so certified is to be recovered like voluntarily adjusted debts through Civil Courts. The Government scheme, however, contemplates under (a) the taking over of such debts by Co-operative Credit Societies, Land Mortgage Banks or other approved credit institutions, and so consequently the necessity of enquiry about surplus income as in (b) arises. In the circumstances, it is perhaps necessary for the Sub-Committee to consider on what lines legislation under (c) and (d) should be based to safeguard the institutions under (a). In view of the fact that the creditors will get back the amount of adjusted debt either in cash or its equivalent in good securities, it may be contemplated that the adjustment should be on liberal basis from the debtor's standpoint.

IV.—*Rural Insolvency Act.*

24. In paragraph 8 of the Government Note, the Board has been asked for opinion as to legislation for a Rural Insolvency Act. In the Reports of the Royal Commission on Labour and the Civil Justices

Committee there are references to insolvency regulations. It will be for the Sub-Committee to decide the form of Rural Insolvency Act suitable for the province.

The points for consideration and decision of the Sub-Committee may be summarised as follows:—

1. What class or classes of agriculturists (according to the definition of the Bengal Tenancy Act) may be considered as having good security to offer or whose credit is reasonably good?

2. Taking the classification under 1, what is the proportion of such class of agriculturists in debt who (a) cannot meet their existing debt obligations given the present level of prices of agricultural produce or (b) are unable through existing ordinary credit organisations to raise money on reasonable terms. (The decision will be mainly based on the report of the statistical Sub-Committee.)

3. Are any measures desirable and practicable:—

(a) For the reduction of debt of such class of agriculturists in the first instance?

(b) For restraining them from borrowing from outsiders in the future, if their present debts are reduced and transferred to a recognised credit society.

4. Is legislation of an emergency or a permanent character necessary to create statutory powers—

(a) For the carrying out of debt conciliation schemes on a voluntary basis?

(b) For the compulsory reduction of interest?

(c) For the compulsory recording of debts or licensing of money-lenders.

(d) In the form of a Special Rural Insolvency Act?

(e) For restraining fresh borrowing except for valid reasons?

5. If legislation is decided on, is it desirable to have a Special Sub-Committee from the member of the Sub-Committee to frame the scheme of such legislation?

6. If so, what should be the personnel of such Special Committee and the terms of reference and the time by which it should report? (The terms of reference may be for drafting in the form of Bills on the different items as in 4.)

Enclosure.**THE CENTRAL PROVINCES DEBT CONCILIATION ACT, 1932.****An Act to make provision for the setting up of Debt Conciliation Boards to relieve agriculturists from indebtedness.****TABLE OF CONTENTS.****PREAMBLE.****SECTIONS.**

1. Short title, extent and commencement.
2. Definitions.
3. Establishment of Debt Conciliation Board.
4. Application for settlement between debtor and his creditors.
5. Verification of application.
6. Particulars to be stated in application.
7. Procedure on application.
8. Notice calling upon creditors to submit statement of debts.
9. Procedure on submission of statement of debts.
10. Board to endeavour amicable settlement.
11. Power of Board to require attendance of persons and productions of documents and to receive evidence.
12. Agreement of amicable settlement, its registration and effect.
13. Recovery of sums due under agreement.
14. Power of Board to dismiss application.
15. Grant of certificate by Board in respect of certain debts.
16. Bar of civil suits.
17. Avoidance of certain transfers of debtor's property.
18. Bar of appeal or revision.
19. Power of Board to review its order.
20. Appearance of party before Board by agent but not by legal practitioner.
21. Suspension of pending application or suit.
22. Submission of report by Boards regarding sums due to Government.
23. Allowance of time for limitation.
24. Members of Board deemed to be public servants.
25. Power to make rules.
26. General provisions regarding rules.

The Central Provinces Debt Conciliation Act, 1933.

An Act to make provision for the setting up of Debt Conciliation Boards to relieve agriculturists from indebtedness.

Preamble.—Whereas it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors;

And whereas the previous sanction of the Governor-General required by sub-section (3) of section 80-A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows:—

1. (1) *Short title, extent and commencement.*—This Act may be called the Central Provinces Debt Conciliation Act, 1933.

(2) It extends to the whole of the Central Provinces.

(3) It shall come into force on such date, as the Local Government may, by notification, direct.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context—

(a) the expressions “malik-makbuza”, “proprietor”, “raiyat”, “raiyat-malik” and “village” shall have the meanings assigned to them in the Central Provinces Land Revenue Act, 1917 (C. P. Act II of 1917);

(b) the expressions “agriculture”, “holding”, “land”, “occupancy tenant” and “absolute occupancy tenant” shall have the meanings assigned to them in the Central Provinces Tenancy Act, 1920 (C. P. Act I of 1920);

(c) “Board” means a Debt Conciliation Board established under sub-section (1) of section 3;

(d) “creditor” means a person to whom a debt is owing and includes a co-operative society;

(e) “debt” includes all liabilities owing to a creditor, in cash or kind, secured or unsecured, payable under a decree or order of a civil court or otherwise, whether due or not due, but shall not include arrears of wages, land revenue or anything recoverable as an arrear of land revenue, or any money for the recovery of which a suit is barred by limitation;

(f) “debtor” means a person who earns his livelihood mainly by agriculture and who is an occupancy tenant or absolute-occupancy tenant or raiyat or raiyat-malik or a malik-makbuza or a proprietor, whose debts exceed Rs. 150;

(g) “prescribed” means prescribed by rules made under this Act.

3. (1) *Establishment of Debt Conciliation Board.*—The local Government may establish a Debt Conciliation Board for any district or part of a district. Such Board shall consist of a Chairman and two or more members, not exceeding five, including the Chairman, to be appointed by the local Government which may, for reasons to be recorded in writing, cancel any appointment and dissolve any Board.

(2) The Chairman and every member of a Board so established shall be appointed for a term not exceeding one year. Such Chairman or member may, on the expiration of the period for which he has been appointed, be again appointed for a further term not exceeding one year.

(3) A Board shall have such quorum as may be prescribed.

(4) Where the Chairman and members of a Board are unable to agree, the opinion of the majority shall prevail. Where the Board is equally divided the Chairman shall have a casting vote.

4. (1) *Application for settlement between debtor and his creditors.*—A debtor or any of his creditors may apply to the Board appointed for the area in which any holding, land or village of the debtor or any part thereof, is situate, to effect a settlement between the debtor and his creditors:

Provided that no application shall be made if the debtor's debts exceed twenty-five thousand rupees or such larger amount as may be prescribed for each area.

(2) No debtor or creditor shall simultaneously make more than one application, and where applications have been made by the debtor and any of his creditors, the applications made by the creditors shall be merged in the application made by the debtor.

5. *Verification of applications.*—Every application to a Board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908 (V of 1908), for signing and verifying plaints.

6. (1) *Particulars to be stated in application.*—Every application presented by a debtor to a Board shall contain the following particulars, namely:—

- (a) a statement that the debtor is unable to pay his debts;
- (b) the place where he resides;
- (c) the amount and particulars of all claims, against him, together with the names and residences of his creditors so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by him; and
- (d) the amount and particulars of all his property, including claims due to him, together with a specification of the value of such property not consisting of money, and the place or places at which any such property is to be found.

(2) Every application presented by a creditor shall contain the following particulars, namely:—

- (a) the place where the debtor resides; and
- (b) the amount and particulars of his claim against such debtor.

7. (1) *Procedure on application.*—On receipt of an application under section 4, the Board shall pass an order fixing a date and place for hearing the application:

Provided that the Board may at any time dismiss the application if, for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and his creditors.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor or creditors, as the case may be.

8. (1) *Notice calling upon creditors to submit statement of debts.*—If, after examining the debtor, it is in the opinion of the Board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be submitted to the Board in writing within two months from the date of service or publication of the notice, as the case may be:

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed to him.

(2) Every debt of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged:

Provided that, if a creditor proves to the satisfaction of the Board or a civil court that the notice was not served on him and that he had no knowledge of its publication, the Board or Court may revive the debt.

9. (1) *Procedure on submission of statement of debts.*—Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 8 shall furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents, including entries in books of account, on which he relies to support his claims, together with a true copy of every such document.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him.

10. *Board to endeavour amicable settlement.*—The Board shall call upon the debtor and each creditor, respectively, to explain his case regarding each debt and shall endeavour to induce them to arrive at an amicable settlement.

11. (1) *Power of Board to require attendance of persons and production of documents and receive evidence.*—Subject to the provisions of sections 132 and 133 of the Code of Civil Procedure, 1908 (V of 1908), and to rules made under section 25 a Board shall have power to summon any person whose attendance it considers necessary either to be examined as a party or to give evidence as a witness or to produce any document for the purposes of any inquiry under this Act.

(2) Any person present may be required by a Board to give evidence or to produce any document then and there in his possession or power.

12. (1) *Agreement of amicable settlement, its registration and effect.*—If the creditors to whom not less than forty per cent. of the total amount of the debtor's debts are owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the parties:

Provided that, when a co-operative society is one of such creditors, no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies.

(2) An agreement thus made shall, within fourteen days from the date of its making, be registered under the Indian Registration Act, 1908 (XVI of 1908), by the Chairman of the Board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court.

(3) For the purpose of the registration of an agreement under sub-section (2), the Chairman of the Board shall be deemed to be an officer of Government empowered to execute such agreement within the meaning of section 88 of the Indian Registration Act, 1908 (XVI of 1908).

13. (1) *Recovery of sums due under agreement.*—If a debtor defaults in paying any amount due in accordance with the terms of an agreement registered under sub-section (2) of section 12, such amount shall be recoverable as an arrear of land revenue on the application of the creditor made within ninety days from the date of default.

(2) Where the Deputy Commissioner fails to recover as an arrear of land revenue any part of such amount, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

(3) Where an agreement ceases to subsist, any amount which was payable under such agreement but has not been paid shall be recoverable as if a decree of a civil court had then been passed for its payment.

14. *Power of Board to dismiss application.*—If no amicable settlement is arrived at under sub-section (1) of section 12, the Board shall dismiss the application.

15. (1) *Grant of certificate by Board in respect of certain debts.*—Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor.

(2) *Power of Court to disallow costs or interest.*—Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the Court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at six per cent. per annum on the amount due on the date of such certificate.

(3) Where, after the registration of an agreement under sub-section (2) of section 12, any unsecured creditor sues for the recovery of a debt, other than a debt incurred subsequent to such agreement, in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such registration, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 (V of 1908), not be executed until all amounts recorded as payable under such agreement have been paid or such agreement has ceased to subsist.

16 *Bar of civil suits.*—No civil court shall entertain—

(a) any suit in respect of—

- (i) any matter pending before a Board, or
- (ii) the validity of any procedure or the legality of any agreement made under this Act, or
- (iii) the recovery of any debt recovered as wholly or partly payable under an agreement registered under sub-section (2) of section 12 from any person who, as a debtor, was party to such agreement, whether such agreement is subsisting or not, or
- (iv) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of section 8, except a debt which is revived under the proviso to that sub-section;

(b) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 15.

17. *Avoidance of certain transfers of debtor's property.*—Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a Board under section 4 and until the agreement registered in respect of such application has ceased to subsist, shall be voidable at the option of any creditor so defeated or delayed.

18. *Bar of appeal or revision.*—No appeal or application for revision shall lie against any order passed by a Board.

19. *Power of Board to review its order.*—A Board may, on the application from any person interested made within ninety days of the passing of an order, review any order passed by it and pass such order in reference thereto as it thinks fit:

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

20. *Appearance of party before Board by agent but not by legal practitioner.*—In any proceedings before a Board any party may be permitted to appear by an agent authorized in writing, but not by a legal practitioner.

21. *Suspension of pending application or suit.*—When an application has been made to a Board under section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the Board has dismissed the application or an agreement registered under sub-section (2) of section 12 has ceased to subsist.

22. *Submission of reports by Boards regarding sums due to Government.*—Where in the course of an inquiry into an application made under section 4 a Board finds that there is any sum owing to Government on account of loans advanced under the Agriculturists' Loans Act, 1884 (XII of 1884), or the Land Improvement Loans Act, 1883 (XIX of 1883), or otherwise, the Board shall report this fact through the Deputy Commissioner to the Commissioner.

23. *Allowance of time for limitation.*—In calculating the period of limitation for any suit filed in, or proceeding before, a civil court for the recovery of a debt which was the subject of any proceedings under this Act, the time during which such proceedings had continued shall be excluded.

24. *Members of Board deemed to be public servants.*—The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

25. *Power to make rules.*—In addition to any power specially conferred by this Act, the local Government may make rules—

- (a) prescribing the quorum for, and regulating the procedure before, a Board;
- (b) prescribing the manner in which notices shall be issued and served or published under sub-section (1) of section 8;
- (c) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid;
- (d) prescribing the records to be kept and the returns to be made by a Board;
- (e) prescribing the allowances, if any, to be paid to the Chairman and members of a Board;
- (f) regulating the power of a Board to summon parties and witnesses under section 11 and the grant of expenses to witnesses;
- (g) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 12;
- (h) prescribing the form of certificate to be granted under sub-section (2) of section 13 or sub-section (1) of section 15; and
- (i) generally, for the purpose of carrying into effect the provisions of this Act.

26. (1) *General provision regarding rules.*—All rules for which provision is made in this Act shall be made by the Local Government and shall be consistent with this Act.

(2) All rules shall be subject to the condition of previous publication.

(3) In making any rule the Local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach has been persisted in.

Note for the Sub-Committee on the organisation and provision of financial machinery for the purpose of liquidating agricultural debt (by Secretary, Board of Economic Enquiry).

This note is a rough attempt to review the respective tasks before the Statistical Sub-Committee and the Financial Sub-Committee. To a great extent it appears their work will overlap.

The Statistical Sub-Committee will examine all the information bearing on the extent of the indebtedness of the agricultural population and the resources at their command for paying interest and their prospects of clearing it. The intensive enquiries of over 7,000 families are being analysed and figures of income, expenditure and debt, will be supplied separately for those families whose debts (a) exceed 2 years' income, (b) are between one and two years' income, and (c) are below one year's income. It is hoped that the Statisticians will be able to advise how far these figures can be taken as representative of different parts of the province by comparing and testing items of information which have been previously collected for the whole province, e.g., the average number of persons in a family, the average amount of land held, the average amount of rent paid, the average produce of different crops. The Sub-Committee as a whole may then be in a position to recommend that the Government scheme of reducing the debt by conciliation and transferring the balance to Land Mortgage Banks, Co-operative Banks, or any other similar institution should be tried in respect of say 40 per cent. of the agricultural families in the province or in certain districts or subdivisions.

2. *Control.*—It has been pointed out in the Government Note that the co-operative movement in Bengal has suffered from inadequate control and guidance. It may, perhaps, be mentioned that Mr. Wolff has often emphasised the need of a considerable measure of Government control in view of the special circumstances of India. The word control represents in all—three different processes, supervision, audit and inspection. Although audit and inspection are provided for in the Co-operative Societies Act of 1912, there is no specific provision dealing with supervision.

The foremost point of importance for decision of the Sub-Committee would, perhaps, be as to the form and nature of control, viz., administrative and financial, that should be exercised by Government with regard to the suggested machineries for taking over the adjusted loans. Because on it will depend the whole structure of the organisation.

If the Sub-Committee decides on a close control and supervision by the Government the nature of control and the approximate strength and cost of the supervising and audit staff required would have to be considered by the Sub-Committee to judge of the feasibility of the proposal.

3. *Finance.*—The next point that may be considered by the Sub-Committee is regarding the financing of the suggested organisations. The defect in the present type of Co-operative Societies, as has been stated in the Government Note, is that they are financed by short-term deposits which is unsuitable to supply the long-term loans required by agriculturists for redemption of debts. The Central Banking Enquiry Committee has suggested that in such cases financing should be by means of debentures as will appear from the scheme of the Committee

in the Statement. The Sub-Committee will be in a position to form an idea of the indebtedness of the different main areas of the province on the estimate of the statistical Sub-Committee.

It may be stated for the consideration of the Sub-Committee that under a properly organised system controlled and regulated by Government, the necessary finances can be raised on more favourable terms. In this connection the possibilities of securing help and advice from the agricultural credit department of the Reserve Bank may be considered coupled with the question of what security can be offered.

After dealing with the two main common points regarding the credit organisation, the Sub-Committee may, perhaps, consider the types of the different organisations that would be suitable to meet the needs of different areas or different classes of debtors.

4. (1) *Co-operative Societies*.—The defects in the present type of Co-operative Societies have been dealt with in the Government Note. It will be for the Sub-Committee to suggest a suitable type of Co-operative Credit Society that can be organised under the existing Act or an amended Act to meet the purpose.

(2) *Land Mortgage Banks*.—In the Statement the schemes for organisation of the Land Mortgage Banks as suggested by the Central Banking Enquiry Committee and that for the experimental banks referred to in paragraph 9 of the Government Note have been shown.

It will be for the Sub-Committee to consider the type that will be suitable in the special conditions prevailing in the province, and if any modifications are necessary.

5. *Approved Credit Organisation*.—Approved credit organisation is a very wide term. It is presumed by some competent observers that they may be institutions financed through Government, e.g., by debentures with interest guaranteed by Government as in case of land mortgage banks or from funds under the control and management of Government or they may be quite independent of the financial help from Government, subject, however, to the close supervision and audit of Government as contemplated before. It has been stated in paragraph 4 of the Government Note that the proposed organisations would be exempt from any restrictions contemplated to be imposed on private money-lenders and in the scheme suggested in paragraph 7, it has been stated that the adjusted debt would be transferred to the credit organisations. It has, however, been strongly emphasised that the credit organisation would require careful supervision, it would not be just to the original creditor to compel him to accept a smaller amount that was due unless it were possible to give him the assurance that his new debtor (the creditor organisation) would not default.

In the case of the first type of approved credit organisations, there is no danger of the assurance being wanting. But considering the vastness of rural indebtedness, which has been estimated by the Provincial Banking Enquiry Committee at rupees one hundred crores, some think it to be worth while to consider the possibilities of utilising the existing credit organisations of individual money-lenders and joint stock companies carrying on loan business. Some restriction has been imposed regarding the keeping of proper accounts and furnishing of the same to a debtor and penalty for non-compliance under sections 7 and 8 of the

Bengal Money-lenders' Act. But if the existing organisations are to take a share in the responsibilities and privileges of the suggested approved credit institutions, they must subject themselves to far greater and closer restriction and supervision.

6. If any scheme for the transference of debt to Government controlled banks is approved, it may be necessary to suggest legislative measures not only for preventing the debtors borrowing outside their own re-organised banks, but to ensure that if the debtors default in payment of interest without very good cause their lands should pass to the Bank without expensive and protracted litigation—the apprehension of which might prevent the bank from being able to sell the lands or settle them with other persons, in which case the banks would be bankrupt in a few years.

Consideration of this difficulty may not be primarily the duty of the Finance Sub-Committee but its ideas on the subject will certainly be welcomed.

7. A statement comparing the schemes for Land Mortgage Banks as suggested by the Indian Central Banking Enquiry Committee and the one adopted by the Co-operative Department, Bengal, is attached.

8. The points for decision of the Sub-Committee may be summarised as below:—

(1) To what extent is it desirable or practicable that adjusted debts should be taken over:

- (a) by Co-operative Credit Societies;
- (b) by Land Mortgage Banks; and
- (c) by approved credit organisations.

(2) In case of 1(a), (i) what should be the scheme of these societies and (ii) what kinds of loans should be financed by them.

(3) In case of 1(b), (i) should these Land Mortgage Banks be formed with direct Government support or through Co-operative Organisations; (ii) what kinds of loans should be financed by them, and (iii) what should be the general scheme of these Banks.

(4) In case of 1 (c), what shall be the scheme of approved credit organisations managed directly by Government.

(5) In case of 1 (c), if other Credit Organisations managed by private individuals or by joint stock companies are to be approved, (i) what should be the scheme of control and supervision of the organisations by Government, and (ii) what should be the scheme of their management.

(6) In the schemes of different organisations recommended in what cases legislation would be necessary and the frame of such legislation.

(7) In case of legislation should any provision be made in particular for enforcement of mortgage security by any summary procedure for foreclosure and sale.

(Schemes of Land Mortgage Banks Co-operative Type).

Items. 1	According to Indian Central Banking Enquiry Committee's Recommendations. (References are to Recommendations.) 2	Scheme by Co-operative Department. (References to paragraphs of the scheme and the by-laws.) 3	Remarks and notes. 4
1. Object ..	Redemption of land and houses of agriculturists and liquidation of old debt. (49).	Same as in column 2. — (1) Includes further objects:— (a) Improvement of method of cultivation, (b) Purchase of land in special cases. (4).	
2. Restrictions	No money should be advanced which is not economically profitable to the borrower and loans should be devoted to principal object of the loan. (49)	Same as in column 2. (4).	
3. Structure ..	<ol style="list-style-type: none"> 1. Provincial Land Mortgage Corporation (provisionally Provincial Bank). (59). 2. District Mortgage Banks over fairly large area. (57). 3. Primary Land Mortgage Banks 4. Members of Primary Land Mortgage Banks, small agriculturists and owners of small holdings. 	<ol style="list-style-type: none"> 1. Provincial Co-operative Bank Limited (tentative). (4). 3. Primary Land Mortgage Banks; jurisdiction continuous with subdivisions. (2). 4. Members—Members of Co-operative Societies and other cultivators, small land-owners and rent receivers, i.e., persons of limited means who are competent to contract legally. (2). 	
4. Control and management.	Not laid down	Board of Directors by election—Registrar, Co-operative Societies, to nominate one-third. (6).	
5. Finance ..	<ol style="list-style-type: none"> 1. Provincial Land Mortgage Corporation— <ol style="list-style-type: none"> (i) Share capital (52). (ii) Debentures to be trustee securities interest to be guaranteed. 2. District Mortgage Banks— <ol style="list-style-type: none"> (i) Share capital. (ii) Loans from Provincial Land Mortgage Corporation against transfer of the mortgage securities. (58). 3. Provincial Land Mortgage Banks— <ol style="list-style-type: none"> (i) Share capital to be raised by subscription or deduction of 5 per cent. of the amount borrowed by members. (ii) Loans from District Mortgage Bank on the mortgage of mortgaged properties. 4. Members—Loans— <ol style="list-style-type: none"> (i) maximum Rs. 5,000. (58). (ii) 50 per cent. of the mortgage security. (50). (iii) according to paying capacity (50). 	<ol style="list-style-type: none"> 1. Provincial Co-operative Bank Limited— <ol style="list-style-type: none"> (i) Existing share capital. (ii) Debentures of Rs. 124 lakhs to be floated by Provincial Co-operative Bank. (8). Reassignment of the mortgage by Provincial Co-operative Bank to trustees. Registrar, Co-operative Societies to be a trustee. (4). 2. Primary Land Mortgage Bank— <ol style="list-style-type: none"> (i) Share capital—Rs. 20 each share—Rs. 10 to be paid on allotment. (ii) assignment of the mortgages to the Provincial Bank. (4). (iii) twenty times the paid-up share capital plus reserve fund—provided not to exceed 50 per cent. the value of property mortgaged to it (bye-law 21). 4. Members—Loans— <ol style="list-style-type: none"> (i) 20 times the paid-up value of shares in the Bank with maximum of Rs. 2,500 (5 and 6A). (ii) 50 per cent. of the total value of land mortgaged. (iii) 75 per cent. of the total income derived from land during the period of the loan. <p>[Regarding (i) Government rules 10(4) and 25(3) limiting to 10 times to be relaxed.]</p> <ol style="list-style-type: none"> (iv) Two collateral securities by two other members. (6A). (v) No loan without previous sanction of the financing Bank (bye-law 37). 	

Items. 1	According to Indian Central Banking Enquiry Committee's Recommendations. (References are to Recommendations.) **	Scheme by Co-operative Department. (References to paragraphs of the scheme and the by-laws.)	Remarks and notes. 4
4. Period ..	1. Debentures—Period of currency (not stated). 2. Loans by District Mortgage Banks from Provincial Land Mortgage Corporation (not stated). 3. Loans by Provincial Land Mortgage Bank (not stated). 4. Members—5, 10, 15 or 20 years—20 years being the maximum. (50).	.... .... .... 4. Not to exceed 20 years (by-law 44).	
5. Method of payment.	1. Debenture—adequate provision for redemption at regular intervals. Bombay and the Punjab have funds without Reserve Fund or Dividends. Madras—Reserve Fund. 4. Loans by members to be repaid— (a) by equated payments thereby amortising the loan after a period of years. (b) by graduated payments in special cases. (51).	1. Debenture—No procedure stated. 4. (i) Instalment. (8). (ii) Annuity. (9).	
6. Rates of Interest.	Not stated ..	1. Debentures at 5 per cent. (4). 2. Loans to Primary Land Mortgage Banks—6½ to 7 per cent. (4). 4. Loans to Members 10½ per cent. (6A).	
7. Reinvestment of Principal.	Debentures— (i) Sinking Fund. (ii) Reserve Fund.	Debentures—Not stated. Principal repaid to be reinvested to existing members or new members with the sanction of the financing bank and Registrar. (8).	
7A. Reserve Fund.	....	Primary Land Mortgage Bank— (i) Reserve Fund—75 per cent. of the profit. (8).	
8. Profits ..	....	25 per cent.—Reserve Fund up to 25 per cent. Dividend and Bonus. Balance—to Reserve Fund. (8). Reserve Fund to be separately invested. (8).	
9. Debt conciliation and adjustment.	Vigorous policy of debt conciliation by Government by equated payments on— (i) Voluntary basis. (ii) On compulsory basis by special legislation.	(i) To be limited to outside debt only but not to debt of Co-operative Credit Societies. (ii) No scheme.	
10. Foreclosure and Sale.	Land Mortgage Banks shall have power of foreclosure and sale without recourse to Civil Courts. (62). This to be secured by legislation.	In case of default the Board of Directors shall call in the loan (by-law 45).	
11. Insolvency Procedure.	Amendment of the Insolvency law so as to give greater protection to land mortgage bank against avoidance of mortgage by the unsecured creditors of insolvents. (63).		

**Note on the Punjab Bill on relief of indebtedness as modified by
Select Committee.**

The Punjab Bill on relief of indebtedness as modified by the Select Committee is divided into 8 parts, viz.—

- (1) Preliminary.
- (2) Insolvency Procedure.
- (3) Usurious Loans.
- (4) Debt Conciliation Board.
- (5) Damdupat.
- (6) Deposit in Courts.
- (7) Amendment of the Punjab Redemption Mortgages Act.
- (8) Miscellaneous amendments of the civil law.

This note summarises the main points on which the Punjab Bill differs from the Bill for the relief of indebtedness drafted for the Board of Economic Enquiry, which is referred to here as "Bengal Bill" for the purpose of brevity.

2. The definition of "Loan" in part I of the Punjab Bill does not differ much from that in the Bengal Bill as they now stand.

3. Part II of the Punjab Bill amends the Provincial Insolvency Act (a) by adding a clause in section 10(I), which has the effect of reducing the minimum assets of an insolvent to Rs. 250 from Rs. 500 and (b) by substituting in section 74 "Rs. 15,000" for "Rs. 5,000" and thus raising the jurisdiction for summary administration of a debtor's property.

It may be noted that there is no minimum proposed in the Bengal Bill which provides in clause 14B for the reduction of an insolvent's debt to his paying capacity by an order of adjustment and for the fixing of instalments for payment accordingly: if there is default in an instalment it provides (in clause 15) for the sale of the insolvent's property excluding his homestead for the rateable distribution of sale proceeds and for granting of a discharge certificate.

4. In part III of the Punjab Bill several amendments of the Usurious Loans Act are contemplated. The main amendment is to the effect that all compound interest shall be deemed to be excessive except on loans from and deposits with Government, local bodies, joint stock companies and co-operative societies and in mortgages by any person other than an agriculturist.

The provisions are to have retrospective effect. There is nothing similar in the Bengal Bill as the Bengal Money Lenders' Act covers them.

5. It is in part IV of the Punjab Bill that the comparison with the Bengal Bill is most interesting.

The definition of "Debt" in the clause 7(1) of the Punjab Bill excludes—

- (a) "Land Revenue" just as "rent" was excluded in the original draft of Bengal Bill. (The Board is now of opinion that "rent" should not be excluded but should be the subject of conciliation just like other debts);
- (b) Debts barred by limitation. This is not of much importance as a time-barred debt is *ipso facto* legally in effective;
- (c) Debts due to co-operative banks and societies, and
- (d) to commercial banks.

There is much controversy as regards exclusion of debts to co-operative societies. The Bengal Bill does not exclude such debts but provides that proceedings which affect them are to be initiated subject to the approval of the Registrar of Co-operative Societies (clause 16). The minority of the Punjab Select Committee notes that the wisdom of excluding co-operative banks is open to question particularly as the Directors of these banks are of the borrowing class: and they hold that these banks require no special protection particularly if as is represented, their dealings are such as to show the utmost consideration for the borrowers.

The Punjab Bill defines "Agriculture" in clause 7(3) as in the English Small Holdings' Act, 1892, 55 and 56 V.C. 31. The Bengal Bill [clause 2(1)] would give it the same meaning as in the Bengal Tenancy Act, where, although it is not defined, it has been interpreted by judicial decisions to include horticulture, etc., "Creditor" and "supplementary income" are defined in the Bengal Bill but not in the Punjab Bill.

The Punjab Bill clause 8(3) provides for fixing the pecuniary limit of a Board's jurisdiction. The Bengal Bill does not fix any limit.

The Punjab Bill (clause 12) does not include a proviso empowering the Board to dismiss an application such as appears in the Bengal Bill (clause 11A).

Consequently the Punjab Bill clause 13(1) makes it obligatory on the Board to issue notices on creditors which the Bengal Bill clause 8(1) provides for issue of notices only if it is thought necessary after examination of the applicant.

The Punjab Bill lays down that if a creditor does not submit a statement of debt after receiving notice, the debt shall be deemed duly discharged [clause 13(2)], but the Bengal Bill [clause 8(2)] provides only that, in such a case, the debt shall be deemed to be the amount stated by the debtor in his application, subject to reduction under debt conciliation.

The Bengal Bill [clause 12(1)] provides for making an award when 60 per cent. of the debtor's debt is amicably settled between him and his creditors, whereas the Punjab Bill [clause 17(1)] provides for an authenticating agreement if "all or any of the creditors" agree (The minority of the Select Committee opposes this on the ground that it is fatal to the whole idea of conciliation. It would be open under the modified provision for a single creditor to effect the rights of other creditors.)

The Punjab Bill clause 17(3) omits provision of registration of an agreement or award such as appears in the Bengal Bill [clause 12(2)], as the Select Committee decided unanimously that the procedure for registration was complex and unnecessary.

Clause 19 of the Punjab Bill deals with the procedure when a creditor refuses a reasonable offer by a debtor: this corresponds to clause 14 of the Bengal Bill but differs fundamentally from it. Both Bills provide for the issue of a certificate or award by the Board in respect of the debts covered by the offer: but in the Punjab Bill the result is merely that a civil court will allow no costs in a suit for these debts and will not allow interest at more than 6 per cent. from the date of the certificate; while the award proposed by the Bengal Bill would have the effect of a decree and would actually reduce the debt though not to a figure below the original principal.

6. There is nothing in the Punjab Bill corresponding to the following clauses of the Bengal Bill:—

- (a) realisation of an amount settled amicably or awarded under clause 14 under the Public Demands Recovery Act, in case of failure to pay instalments as fixed in the award;
- (b) clause 17A(ii) barring execution of a decree for a loan incurred after an award till the amounts covered by them have been paid;
- (c) clause 14A which provides that secured debts should have priority and that the mortgage or lien on the property will subsist till the awarded or certificated debts are paid; and
- (d) clause 23 which provides that an award shall be negotiable and may be transferred to an approved credit organisation.

7. Part V (Damdupat) of the Punjab Bill is not necessary for Bengal in view of the Bengal "Money-Lenders" Act.

8. There is nothing in the Bengal Bill to correspond with the following items in the Punjab Bill:—

- (a) Part VI—Deposit in Court.
- (b) Part VII—Amendment of the Punjab Redemption of Mortgages Act.
- (c) Part VIII—Miscellaneous amendments of the civil law. The important provision is clause 33, prohibiting arrest of a debtor except under certain circumstances, one of which is refusing or neglecting to pay the amount of a decree in spite of having the means of paying it.

Clause 34 of the Punjab Bill restricts the prohibition contained in section 60(I) of the Civil Procedure Code against attachment of house or other buildings belonging to and occupied by an agriculturist, by adding the words "not let out on rent or let to others or left vacant for a period of a year or more."

Clause 35 omits rule 2(3) in Order XXI of the Civil Procedure Code, which is to the effect that no payment out of court will be recognised if not certified by a court.

Clause 36 amends section 48 of Civil Procedure Code by making the period of limitation for recovery under a decree six years instead of twelve.

Registered No. C207

Amplified



The Calcutta Gazette

THURSDAY, NOVEMBER 21, 1935.

PART IV

Bills introduced in the Bengal Legislative Council, Reports of Select Committees presented or to be presented to that Council, and Bills published before introduction in that Council.

**BENGAL LEGISLATIVE COUNCIL
DEPARTMENT.**

NOTIFICATION.

No. 4230L.C.—14th November, 1935.—The following report of the Select Committee on the Bengal Relief of Indebtedness Bill, 1935, with the Bill embodying amendments recommended by them, annexed, is hereby published for general information.

X9(N). 6. (2262). N356

GS

**Report of the Select Committee on the Bengal Relief of Indebtedness
Bill, 1935.**

We, the members of the Select Committee of the Bengal Legislative Council to which the Bengal Relief of Indebtedness Bill, 1935, was referred by a motion carried in the Bengal Legislative Council on the 28th August, 1935, have the honour to submit this our report with the Bill embodying amendments recommended by us annexed. All matter recommended to be omitted by the Select Committee has been printed in *italics* and enclosed in square brackets and all new matter recommended to be inserted has been underlined.

2. The Bill was published in English in an *Extraordinary* issue of the *Calcutta Gazette* of the 12th August, 1935.

3. We do not consider that the Bill has been so altered by our recommendations as to require republication.

4. The Committee met for the first time in Calcutta on the 29th August, 1935, continued its sittings in Darjeeling on the 16th October, 1935, and concluded them on the 28th October, 1935.

5. The changes made in the Bill are as follows:—

In the first paragraph of the Preamble we have considered it desirable to specify clearly that the Bill is intended to provide for the relief of indebtedness of agricultural debtors.

Clause 1.—We have also for similar reasons changed the Short Title.

Clause 2, sub-clause (1).—We have included in this definition dairy farming as we consider this to be a well-recognised branch of agriculture.

Sub-clause (2).—The alteration has been made in view of the insertion of clause 9A regarding joint debts.

Sub-clause (5).—The alteration made here is consequential upon the new proviso to clause 4.

Sub-clause (8).—We have considered it desirable to omit items (i) and (ii) as we do not see any special reason for excluding these debts from the definition. We have, however, excluded from definition of debt contingent liabilities and share of produce of land payable under the system known as *adhi*, *barga* or *bhag*.

Item (iv) has been revised from a drafting point of view to make the intention clearer.

Items (vi) and (vii) have been replaced by new item (va) at the suggestion of the Government of India to which we have agreed.

Sub-clause (9).—We have recast the first portion of the definition of debtor to include a *raiyat*, under-*raiyat* or person who cultivates land by himself or by members of his own family or by hired labourers or by *adhiaras*, *bargadars* or *bhagdars*.

We have considered it desirable to include in this definition groups of persons who join in making an application under clause 9A (1).

We have omitted the second portion of the existing sub-clause (9) in regard to the finality of the decision of the Board and have reproduced it as a new clause 19A as being more suitable.

Sub-clause (15).—The change made here is purely verbal.

Sub-clause (16).—The additions to the expressions "*raiyat*" and "*under-raiyat*" are necessitated by the use of these expressions in the revised definition of debtor in sub-clause (9) referred to above.

Clause 3(2).—The omission suggested here is purely consequential to the omission of clause 8.

Clause 4.—We have modified the proviso to clause 4 so as to ensure that when a Board is dissolved, and it is not possible for the Local Government for any reason to appoint another Board, any work in connection with work already undertaken by the defunct Board, other than the making of the award, may be carried out by the Collector. The award, however, shall be made by an officer of judicial experience to be especially appointed in this behalf by the Local Government.

Clause 7.—We have considered it desirable to provide that the Local Government and not the Commissioner should be the authority to invest Boards with special powers. The other change in this clause is purely consequential.

Clause 8.—We have considered it desirable to omit this provision as, in our opinion, if a Board is given power to withdraw applications from other Boards it may lead to undesirable complications. We have, however, inserted a new clause 33A providing for the transfer of applications under clause 9 from one Board to another. We have also considered it desirable to give the Appellate Officer power to transfer applications if he considers it expedient to do so—*vide* new clause 34A.

Clause 9.—We have recast sub-clause (1) in order to restrict applications being made to Boards established for the area in which a debtor ordinarily resides.

Sub-clause (2).—We have omitted this sub-clause as being inappropriate. We have, however, inserted two new sub-clauses (6) and (7) in this clause providing for a further application being entertained by a Board for good and sufficient reasons.

In sub-clause (7) we have considered it desirable to make a specific provision to the effect that a Board is not to entertain a further application under sub-clause (1) or sub-clause (3) in respect of a debt which has been incurred by a debtor after the date of the first application.

This important change will ensure that the Bill should be an emergency measure only.

New clause 9A.—We have considered it desirable to include this new provision relating to settlement of debts by joint debtors.

In sub-clause (2) power is given to the Board to entertain an application by a debtor if he is jointly liable in respect of any debt and if the other joint debtors refuse to join in his application.

Clause 11.—We have revised this clause by including in it provisions for the furnishing of some more particulars in the statement of debt than were included in the original clause.

Clause 12.—We have slightly modified sub-clause (2) to provide that notice of the Board's order shall be given to all persons whose names and addresses are given in the application.

A new sub-clause (3) has been added providing that the applicant shall be examined on oath or affirmation and that the substance of such examination shall be recorded in writing by the Board. We consider that such a memorandum will be found useful in case of a revision or appeal against the order or decision of the Board.

Clause 13.—We have recast the first paragraph of sub-clause (7) to make the intention clearer. We have also altered the period during which the debtor and creditors shall submit a statement of debt under the sub-clause from two months to one month as we think the latter period adequate.

In sub-clause (2) we have omitted the proviso and reproduced it as part of the new proviso to sub-clause (3).

Sub-clause (3).—We have considered it desirable to include provisions for variation or revision of an order of the Board by review or on appeal. We have added a further proviso to cover the case where a Board has ceased to exist. The order under sub-clause (2) or sub-clause (3) may be varied or reversed by the Appellate Officer on application. In this sub-clause we have also provided for costs being allowed against the debtor if, and to such an extent as, the Board considers reasonable.

Clause 14.—In sub-clause (3) we have included the successor in interest of a debtor and have considered it desirable to include in it a provision that documents not submitted previously may be admitted as evidence later if it is proved to the satisfaction of the Civil Court that there were sufficient reasons for their non-production before the Board in the first instance.

Clause 17.—We have considered it desirable to omit the proviso to clause (b) in sub-clause (1).

We have inserted a general provision in clause 1(c) for the dismissal of applications when the Board is satisfied that the debtor is attempting to use the provisions of the Act with a view to defraud any creditor.

We have recast sub-clause (2) providing for dismissal of an application in case of transfer of any property by any debtor within two years previous to the date of such application with a view to defraud any creditor.

Clause 18.—The changes made in sub-clause (1) are with a view to make the intention clearer.

We have recast the proviso to provide that the decree of the Civil Court shall be conclusive evidence only as between the parties to the decree.

In sub-clause (2) we have included a provision that the Board before passing an order will hear the parties and consider the evidence produced.

In sub-clause (3) we have omitted the proviso as being undesirable.

The change in sub-clause (4) is merely verbal.

Clause 19.—We have omitted from clause (1) (a) the words "and may dismiss the application in respect of the remaining debts of the debtor" and from (1) (b) the words "and may dismiss the application in respect of the remaining debts" as being unnecessary.

We have modified sub-clauses (1) (b) and (1) (c) in such a manner that the provisions are to apply only when creditors, to whom is owing not less than forty *per cent.* or sixty *per cent.* of the total secured and unsecured debts, have agreed.

In the proviso to clause (1) (c) we have considered it desirable to add a provision that the terms are fair terms in the opinion of the Board.

Sub-clause (2).—We have omitted this sub-clause and reproduced it as new clause 21A which bars the application of clauses 19, 20, and 21 to debts due in respect of arrears of rent.

We have added an Explanation to this clause as to the meaning of the expressions "secured debt" and "unsecured debt."

Clause 20.—The change in paragraph 2 is to make the intention clearer.

Clause 21.—We have considered it desirable to revise clauses (1) (a) and (1) (b) giving power to the Board to reduce the debts of a debtor to such amount as may be paid within a period not exceeding twenty years and fixing the principle upon which each instalment is to be fixed. In case the Board considers it undesirable or impracticable to reduce the debt as above the Board shall specify what portion of the immovable property of the debtor (including not more than one-third or less than one acre of his land to be left as provision towards his maintenance) shall be excluded from the sale and what of the remainder shall be sold for the payment of the debt.

We have considered it desirable to include a new sub-clause (1a) authorising the Certificate-officer to sell the property of the debtor in the manner provided in the Bengal Public Demands Recovery Act, 1913.

Sub-clause (2).—In the proviso we have considered it desirable to include properties which are declared by a civil court or are discovered to belong to the insolvent debtor. The other alterations are verbal.

Clause 22.—The changes in sub-clauses (2) and (3) are consequential. We have omitted sub-clause (4) as unnecessary.

Clause 23.—We have inserted a new sub-clause (1) (a1) to provide for the inclusion of a list of the movable properties of the debtor on which there is a mortgage, lien or charge.

In sub-clause (1)(d) we have included a proviso regarding the payment of the amount according to the order specified in the proviso.

New clause 23A.—We have considered it desirable to make a special provision regarding the inclusion of arrears of rent (included in an award) in a suit instituted by the landlord for the recovery of the arrears of rent accruing during the continuance of the award.

We have also considered it desirable to give power to any creditor to whom any amount is due under the award to pay to the court arrears of rent to prevent the sale of the debtor's land in execution of rent decrees.

Clause 24.—The alteration in this clause is purely consequential upon the inclusion of new clause 24A.

Clause 24A.—We have considered it desirable to provide by this clause that the provisions of Chapter XIV of the Bengal Tenancy Act, 1885, shall apply to lands sold by a Certificate-officer under this Act.

Clause 25.—The change in sub-clause (1) is intended to provide for the case of joint-creditors. We have recast sub-clause (2) in order to give power to the Certificate-officer, in a case where he allows time to the debtor within which to pay any amount due under the award, to direct that a similar period of time shall be given to the debtor after the time fixed in the award for payment of any other amount payable thereunder.

Sub-clause (2a) repeats certain provisions of original sub-clause (2) of clause 25 as in the Bill as introduced.

We have recast sub-clause (3) to enable the Certificate-officer to sell only such portion of the property of the debtor as will be sufficient to pay all amounts payable under the award.

The changes in sub-clause (4) are consequential.

Clause 26.—The changes in sub-clause (1) are consequential. We have inserted a new sub-clause (1a) requiring the Certificate Officer to pay out of the distribution of sale-proceeds first any amount payable as costs of sale in execution of the Certificate. We have also revised sub-clause (1) (a) in view of the insertion of clause 24A.

In sub-clause (1) (b) the reference to a decree passed by a Civil Court has been omitted as being undesirable.

We have recast sub-clause (3) to make the intention clearer.

In sub-clause (4), we have omitted the opening reference to clause 21(2) as being unnecessary.

We have considered it desirable to add a proviso that in case the sale-proceeds are insufficient to meet the payment of the amounts payable under the award the Board may pass an order declaring the debtor to be an insolvent.

New clause 27A.—By this clause we have given an opportunity to the debtor to apply to the civil court to set aside an *ex parte* decree referred to in the proviso to sub-clause (1) of clause 18.

Clause 28.—The alteration made in this clause is to make the intention clearer.

Clause 29.—We have recast the proviso in view of the proviso added to clause 26(4). The other changes in this clause are purely verbal.

Clause 30.—In sub-clause (ii) we have considered it desirable to alter the period of six months to three months.

In sub-clause (iii) we have for similar reasons changed the "date of the signing of an award made" to "the date of an application under clause 9."

Clause 31.—The alterations are to make the intention clearer.

Clause 32.—The alterations are purely verbal.

Clause 33.—The alteration here is consequential upon the change made in sub-clause (1) (a) of clause 34.

Clause 34.—The change in sub-clause (1) (a) is to make the intention clearer. We have omitted sub-clause (1) (d) as being unnecessary.

In the proviso we have altered "an officer" to "a person" in order to enable the Local Government to appoint any person it considers suitable. The other changes are of a consequential character.

We have inserted a new sub-clause (1a) to provide that an appeal shall lie if made within thirty days.

In sub-clause (3), the addition is intended to provide that the appellant shall be given an opportunity of being heard.

A new sub-clause (7) has been added to prevent an appeal against a decision passed by the Board with the consent of the debtor and the creditor.

Clause 34A.—See the remarks under clause 8.

Clause 34AA. This new clause will give power to the Appellate Officer to give his opinion, advice or direction to a Board seeking the same.

Clause 36.—The small emendation in this clause follows the change made in clauses 33 and 34.

New clause 36A.—We have considered it desirable to bar the application of the Indian Evidence Act and the Code of Civil Procedure to proceedings before a Board. The procedure is to be laid down by rules to be made under the Act.

Clause 37.—We have recast this clause by omitting the reference to persons who are proclaimed touts as being unnecessary in view of the provision that the Board's permission is required before any agent can appear.

We have added a proviso authorising a son or husband of a party to appear before a Board even if he is a legal practitioner.

Clause 44.—We have considered it desirable to alter this clause to provide that an award shall be assignable in the manner prescribed by rules under this Act and not as a decree of a civil court.

Clause 45.—The alterations in sub-clauses 1(a) (b) and (2) are with the desire to guard against abuse and to make the intention clearer.

We have reduced the maximum penalty under this clause from seven years to three years.

Clause 46.—In sub-clause (c) we have included the Appellate Officer in order to enable his allowance to be fixed by rules. The other alterations in this clause are purely consequential, except that by the insertion of a new sub-clause (3), the power of making rules is subject to the condition that the rules are to be made after previous publication.

We recommend that the Bill, as reported on by us, be passed.

The official members of the Committee desire to make it clear that as the changes made in clauses 9, 14(3), 23A (b), 24A and 36A require the previous sanction of the Governor General, they are unable to accept responsibility for them in the absence of such sanction.

*K. NAZIMUDDIN,

Member-in-charge.

..

*F. A. SACHSE.

*H. P. V. TOWNEND.

M. A. MOMIN.

AMULYADHAN RAY.

MUAZZAM ALI KHAN.

K. C. RAY CHOWDHURY.

*N. K. BASU.

*S. M. BOSE.

*KHETTER MOHAN RAY.

*SAILESWAR SINGH ROY.

*ABDUL HAMID SHAH.

*ALIMUZZAMAN CHAUDHURI.

*SYED MAJID BAKSH.

W. C. WORDSWORTH.

NAGENDRA NARAYAN RAY.

*B. N. SINHA.

*A. M. PODDAR.

*HAJI BADI AHMED CHOWDHURY.

*ABUL QUASEM.

TAMIZUDDIN KHAN.

J. W. MCKAY,

Secretary to the Bengal Legislative Council.

*Signed subject to his minute of dissent annexed.

NOTE.—The signature of Dr. Nareesh Chandra Sen Gupta, Mr. H. S. Suhrawardy, Khan Bahadur A. F. M. Abdur-Rahman, Khan Sahib Maulvi Mohammad Bashiruddin and Baba Hem Chandra Roy Clouthuri had not been received up to the time of publishing the Report.

**Joint minute of dissent (by way of reservation) by the Hon'ble Khwaja Sir Nazimuddin,
Mr. F. A. Sachse and Mr. H. P. V. Townend.**

Government reserve the right to move any amendments to the changes proposed in the following clauses, after further consideration, *viz*:—

Clauses 2(a), 2(9), 9(7), 9A, 18(3), 19(I) (b) and proviso, 21, 23(I) (d), 23A, 24A, 25(2), 26(I) (a) and 34AA.

Minute of dissent by Mr. Narendra Kumar Basu, M.L.C.

I dissent from several of the provisions of the Bill as settled by the Committee.

When at the start of the proceedings, I asked the Hon'ble Member-in-charge if he could give us time or when the Bill came before the Council an idea as to the policy of Government in carrying out the measure, whether they were willing to find some money for the purposes of the Bill the Hon'ble Member declared that Government would not *advance any money* and was not prepared to give any financial help. That in my judgment is enough for the Council to throw the Bill out altogether. To provide for compulsion and not to provide any funds would in my opinion be tantamount to wrecking the whole system of agrarian and rural credit and to head straight for an economic revolution.

The official viewpoint was stated to be that creditors might be compelled but debtors not. If the debtor does not think it advantageous to come in for a settlement of the debts, he must not be compelled.

It is from this point of view that the provisions of clauses 9 (3) and 13 (3) have been framed.

I shall only mention here that the principal provisions to which I object are—

- (1) Clauses 3 (2) and 34—regarding the qualifications of the Chairmen of Boards having the compulsory powers and of the Appellate officers.
- (2) Clause 13 (3) and if that is retained the inadvisability and inconsistency of retaining clause 9 (3).
- (3) The retention of clause 20 and more specially the last sentence thereof postponing execution of a decree for ten years *even where there is no award*.
- (4) Clause 37 prohibiting the employment of lawyers before Boards which would exercise such wide powers as are contemplated.

I may mention that the opposition to my proposal for fixing the court-fees for applications by *debtors* under clause 9 at a nominal figure throws the intentions of the Government and its supporters into strong and lurid relief. One wonders if leaving everything to the executive even in fiscal matters would be tolerated in any other atmosphere. I am sorry that for personal reasons I am unable to make this note as full as I had intended but I reserve liberty to move amendments to the clauses not mentioned herein, in Council.

Minute of dissent by Mr. S. M. Bose, M.L.C.

In this note of dissent I shall only deal with certain general questions of principle, matters of detail being left to be dealt with by amendments at the proper time.

2. **Clause 3(2).**—In the case of Boards exercising powers under clause 7, it is very necessary that the Chairman, at any rate, should be an experienced judicial officer of at least ten years' standing. The Board may have to deal with difficult questions of civil law, and the Chair should have a thorough knowledge of such law. Under the Central Provinces Debt Conciliation Act, as appears from a report in the *Statesman* (Dak Edition, dated 24th October last) a Conciliation Board has been established at Sohagpur under the Chairmanship of a Sub-Judge. It is to be remembered that under the Central Provinces Act, debt conciliation is on an entirely voluntary basis, and even then, a judicial officer has been appointed Chairman. The argument that there are not enough judicial officers for the purpose is unsound, as the work of the civil courts will be very greatly diminished when this Act comes into operation. It is also possible as in the Central Provinces, for the Government to establish two Boards with a common Chairman. In any event, the qualifications of the Chairman should be laid down in the Act itself, and not left to be regulated by rules. Further, the services of retired judicial officers may be availed of.

3. **Clause 13(3).**—This clause says that if on the application of a creditor, notice is issued on a debtor calling upon him to submit a statement of his debts within one month, and if he fails to do so, the creditor's application is to be dismissed. This is against all principles of justice and equity, and the clause should be deleted. Under clause 9, either the debtor or the creditor may apply to the Board for debt-conciliation.

If the debtor applies, and the creditor fails, after notice, to submit a statement of debt, then under clause 13(2) the amount stated in the debtor's application is to be taken as correct, and no debt of which the creditor has failed to submit a statement (unless admitted by the debtor) is to be payable. But in the case of the creditor's application, if the debtor defaults, the application is to be dismissed. In all fairness, in such a case, the amount stated in the creditor's application should be taken as correct, on the analogy of clause 13(2). There are only two alternatives on principle. Either the creditor should not be allowed to apply at all under clause 9; or if he is allowed, then the same rule should prevail as in the case of the debtor's application.

The principle embodied in this sub-clause is reminiscent of archaic law where the plaintiff had to drag the defendant to the court before the court would assume jurisdiction in the matter.

4. **Clause 20.**—This, to my mind, is the most objectionable clause in the whole Bill and should be entirely omitted or radically modified. It negatives the principle underlying clause 19, namely, that where a large proportion of the creditors agree (40 per cent. or 60 per cent. as the case may be), and the offer seems fair to the Board, then the composition may be put through and gentle compulsion applied to the other creditors. It is understood that it is not the intention of the Government to enforce absolute compulsion, but clause 20 in effect compels the creditors to accept whatever terms are considered fair to the Board (even though not a single creditor accepts them) for otherwise their claims cannot be enforced for many years (the period of postponement may extend upto 20 years) which means practically that their claims cannot be enforced at all. If the object of the Government be to enforce naked compulsion then clause 19 is superfluous, and the Bill might then consist of a single clause 20. Attention is invited to section 20 of the Punjab Act of 1934, which provides for a certificate being given by the Board to a debtor in respect of a debt where the terms offered are (1) considered fair by the Board, and (2) are accepted by creditors holding 40 per cent. or more of the total debts. Attention is also invited to the Report of the Commission appointed to consider the question of agricultural indebtedness in the Protectorate of Zanzibar which was presided over by the Chief Justice of the Protectorate. The main step suggested in the Report was the adjustment of debts by amicable settlement through Conciliation Boards similar to those established under the Central Provinces Act and the Punjab Act. The Zanzibar Commission recommended that a Conciliation Board should consist of a Resident Magistrate, an Indian and an Arab, and should have the power to impose on the parties any adjustment which is acceptable to the debtor and to 60 per cent. in value of his creditors. In any event, the provision at the end of the clause that even if there is no award, the creditor's claim may be postponed upto ten years, is inequitable, and against all principles. Arbitrary power is given to the Board, which may instead of making an award, penalise a particular creditor by imposing an offer on him at its entire discretion, without any reference to the views of the creditors, be they secured or unsecured, and if he does not agree, his claim is postponed for a period upto ten years. There is no justification for this.

5. **Clause 27.**—Joint-stock Banks and Co-operative Societies should be placed exactly on the same footing, as both lend out money received from depositors. There is no exemption under the Punjab Act or under the Central Provinces Act of co-operative societies from the scope of these Acts; in fact, Central Provinces Act expressly includes such societies within the definition of a creditor. The rate of interest to be allowed may be prescribed as originally proposed in clause 2(8) (*vi*) of the Bill when introduced in the Council.

6. **Clause 34(1)—Appellate Officer.**—The qualifications of this officer should be laid down in the Act itself. It is very necessary that he should be an experienced civil judicial officer of several years' standing, and not below the rank of a Subordinate Judge. Retired judicial officers with this qualification should be eligible. Reference is invited to the remarks made in paragraph 2 above.

7. **Clause 37.**—There is no reason why legal practitioners should not be allowed to appear at any rate before Boards having power under clause 7 of the Bill, and before the Officer appointed under the proviso to clause 4. Intricate questions affecting the rights of various parties will have to be considered by them and lawyers will be of great assistance.

Minute of dissent by Babu Khetter Mohan Ray, M.L.C.

I still adhere to my view that the rent should not be included within the purview of this Bill. Rent is payable by instalments and generally rents are not sued for till the arrears are about to be barred, i.e., on the eve of expiry of the 4th year, thus the tenants have sufficient opportunities to pay by instalment. If further instalments are allowed for payment of arrears of rents and rent decrees, it will be very difficult for the landlords to pay revenue and rents to the superior landlords.

2. Joint-stock Banks should not be included in the Bill. These Banks are public Banks registered under the Company's Act. Several crores of rupees have been invested in these Banks by the public by way of share capital and deposits,

If these Banks are included, it will hit hard the general credit and trade and commerce of the country. Most of these Banks are financing trade and industry as well as agriculture.

3. In the Bill itself no provision has been made as to personnel of the Board. These Boards will be called upon to decide important questions of facts and sometimes of law. Village people such as we generally find in the Union Boards should not be appointed members of the Boards. From our experience of the Union Boards, we are of opinion that the constitution of the Boards should avoid this class of persons who are very often amenable to the influence of village factions and other undesirable influences. These Boards should be presided over by persons having judicial experience, who should be paid by fees, if non-official. The Board should sit at the headquarters of a subdivision. Lawyers should be allowed to appear. I do not see any reason for excluding lawyers from the Board. Appearance of lawyers will check many irregularities, illegalities and even corrupt practices.

4. There are stringent provisions in various forms to compel the creditors to appear before the Board on the application of the debtor and after his appearance, if he refused to accept terms offered by the debtor which in the opinion of the Board are fair, harsh and inequitable provisions are made in the Bill for punishing the creditor for his refusal. But there is no provision to compel the debtor to appear before the Board on the application of the creditor and have the debt settled. This is one-sided arrangement. I am of opinion that similar provisions should be made to compel the debtor to appear before the Board. The question of losing revenue on account of court-fees should not enter into consideration in providing compulsory measures for appearance of the debtor on the application of the creditor. For, the effect of the passing of the present Bill will have the effect of decreasing revenue on court-fees.

To my mind, legislation should proceed on the voluntary basis as in the Central Provinces. In order to make the debt conciliation successful without injuring rural credit, compulsory provisions should be omitted.

The Appellate Officer should in all cases be the District Judges or his Subordinate Officers to whom he may delegate his powers. Executive officers should not be appointed Appellate Officer.

Clause 20.—Provision for granting certificate should be omitted. At least in cases decided under clause 19 (1) (a) clause 20 should not be made applicable.

When the debt can be settled at any amount, it is not necessary to retain provisions for insolvency. These provisions do not exist in similar Acts, passed in other provinces. I am of opinion, clauses 21 and 22 should be deleted. Other objections will be preferred by way of amendments to the Bill.

Minute of dissent by Mr. Saileswar Singh Roy, M.L.C.

I beg to submit the following note of dissent on the report of the Select Committee on the Bengal Relief of Indebtedness Bill, 1935:—

1. **Clause 3(2).**—In the case of Boards exercising powers under clause 7, the Chairman should be an officer of judicial experience of not less than 10 years, and not below the rank of a senior Munsif. The Chairman's qualifications should be provided in the Act itself, and not left to rules.

2. **Clause 13(3).**—This clause should be deleted. Under clause 9, either the debtor, or the creditor may apply under this Act to the Board. If the debtor applies and the creditor fails to comply with the notice to supply a statement of debt, then the amount stated in the debtor's application is to be deemed correct, and no debt excluded from the creditor's statement is to be payable. But in the case of the creditor's application, it is to be dismissed if the debtor defaults. This is against all principles of equity. In such a case, the amount stated in the creditor's application should be taken to be correct, on the lines of clause 13(2).

Either the creditor should not be allowed to apply at all, or if he is so allowed, the same rule should prevail as in the case of the debtor's application.

3. The provisions of clause 14(3) and clause 31(b) seem to be rather contradictory. Clause 31 should be re-drafted in the light of clause 14(3) to remove any further controversy on the point.

4. **Clause 20** should be entirely omitted or radically altered. This clause negates the principle underlying clause 19, namely, where a large proportion of the creditors agree (40 per cent. or 60 per cent., as the case may be), and the offer to the Board seems fair, then the composition may be put through, and gentle compulsion may be applied to the other creditors. It is understood that it is not the intention of Government to enforce absolute compulsion but clause 20 is in effect intended to compel the creditors to accept whatever terms are considered fair by the Board, for otherwise their claims cannot be enforced for many years (the period of postponement may extend up to 20 years). If the policy of Government is to enforce out and out compulsion, clause 19 is meaningless. In any event, the provision at the end of clause 20 that even

if there be no award, the creditor is to be postponed for a period up to ten years is inequitable and is opposed to all principles of law. This is the most objectionable clause in the whole Bill.

5. **Clause 34(1)—The Appellate Officer.**—His qualifications should be prescribed in the Bill. It is very necessary that he should be one with considerable judicial experience and not below the rank of a Subordinate Judge either in service or retired.

6. **Clause 37.**—There is no reason why legal practitioners should not be allowed to appear at any rate before the Appellate Officer. Intricate questions affecting the rights of parties have to be settled by such tribunals, and lawyers will be of considerable help to them. The bar should therefore be removed.

Constituted Attorneys of parties irrespective of the fact whether they are lawyers or not, should be allowed to appear before the Board having powers under clause 7 of the Bill and also before the Appellate Officer.

Minute of dissent by Maulvi Abdul Hamid Shah, M.L.C.

I signed my name with the note of dissent on the clauses 27 and 37, which I shall put forward as amendments in the discussion in the Council.

Minute of dissent by Khan Bahadur Maulvi Alimuzzaman Chaudhuri, M.L.C.

Owing to my illness I could not attend the Select Committee meeting. I reserve my right to place amendments at the time of reconsideration of the Report.

Minute of dissent by Maulvi Syed Majid Baksh, M.L.C.

I sign the Report of the Select Committee of the Bengal Relief of Indebtedness Bill, 1935, subject to the following note of dissent.

The provision to make the sureties jointly liable to the fullest amount of debt although the share of debt of a debtor is reduced is unjust because it may be in many cases the sureties out of a disinterested motive and merely to help a debtor lent his name to the joint debt. In such a case it would be too harsh to penalise a surety. Hence to clause 9A (1) a further sub-clause (c) should be added for the protection of such sureties as mentioned above. Moreover, if the share of debt of an agriculturist is reduced, the others should not be saddled with more than their share. Clause 2 (8) (iv) (b) is ambiguous. It is not clear what sort of arrears of rent is meant. It should be cleared up by an amendment.

Clause 17 (2) (b) is unnecessarily harsh on the debtor because there may be such cases where the debtor not knowing that the Bengal Agricultural Debtors Act is coming to existence may have made a transfer of the property for self-protection. Such cases should be provided for.

In clause 19A there should be provision that the decision of the Board shall be final.

The exclusion of three *bighas* of land for the maintenance of an insolvent debtor should be in addition to his homestead.

Minute of dissent by Raja Bahadur Bhupendra Narayan Sinha, of Nashipur, M.L.C.

So far as the object of the Bill is concerned it is laudable. We appreciate the motive which has inspired the Government to introduce the Bill and to take up this vital question of the province. We cannot but be thankful to the authorities for recognising the necessity of tackling this problem of Rural Indebtedness.

But the methods that have been adopted are likely to be of doubtful utility. The Hon'ble Member has cited the case of Bhawnagore State. Amongst other measures adopted to relieve the debt-oppressed *khedu* (agriculturist), the Bhawnagore Durbar sanctioned a debt redemption scheme depending for its application on the voluntary co-operation of the *sowcars* (money-lenders) and the indebted *khedu*. But the Durbar was not satisfied by merely passing a new law, but as a measure of practical relief, the Durbar had sanctioned some money to pay off the debts. The nominal outstanding arrears shown as owing by *khedus* in *sowcars'* books amounted to Rs. 86,38,000, and the same have been compounded and compromised under the scheme by the Durbar, paying on behalf of the indebted *khedus* Rs. 20,59,000. This is the practical way of solving this great problem of problems. If the Government want to give the full benefit of the Bill to the indebted agriculturists they must provide a loan from the Government of India at the usual interest of 3 per cent. and then they can lend the money to the agriculturists by way of settling their debts, at a higher rate of interest. If the loan from the Government of India cannot be secured, the next course would be to organise

rural banks in each subdivision which can advance money on the security of the landed property. But mere passing of the Bill will not achieve the object fully and successfully.

It is further admitted that the Chandpur Boards had success. But there is much difference between the method adopted at Chandpur, and the one provided in the Bill. Three types of Boards are proposed to be set up under this Bill. But only the first type resembles the Boards as set up at Chandpur subdivision whose duty had been to amicably settle debts on the lines of the Central Provinces and the Punjab Boards. The power of compulsion given to the other Boards is admittedly wider than what was recommended by the Board of Enquiry. Secondly, the Chandpur Board has selected a few cases, whereas the Bill would apply to all without exception. So these factors should be considered seriously before we launch the Bill.

I would like to make a few observations with regard to some of the clauses.

Rent should not be included within the purview of the Bill. Ever since the permanent settlement and the passing of the Bengal Tenancy Act of 1885, rent has been enjoying a special form of sanctity, and the civil courts are not empowered to allow instalments in decree for arrears of rent. The inclusion of arrears of rent can only be considered as a measure of temporary emergency and not as a permanent one. In the Central Provinces and the Punjab Acts arrears of land revenue are excluded. If the analogy of the Central Provinces and the Punjab Acts are strictly followed in all their implications, the claim for arrears of rent to be excluded from the category of debt becomes irresistible.

In the award some provision should be made for the payment of current rent. From the standpoint of debtor this should be done. If no provision be made, naturally the debtor will make default and his holding is liable to be sold and the object of the Bill will be frustrated.

A certificate as to the satisfaction of the arrears of rent due by a debtor should be a condition precedent to the granting of an award at the instance of the debtor or creditor as recommended by the Enquiry Committee.

Under clause 13, if any creditor fails to comply with a notice under sub-clause (1), the Board will declare that "the amount of any debt due to him from a creditor on the date of such order shall, for the purposes of this Act, be deemed to be the amount stated in the statement of debt submitted by the debtor, and that no debt of which the creditor has failed to submit a statement, other than a debt which the debtor has included in his statement of debt, shall be payable;"

"and such order shall not be questioned in any civil court or in any manner."

"If any debtor fails to comply with a notice under sub-section (1), the Board shall dismiss the application."

There should not be an invidious distinction between a debtor and a creditor.

Clause 2(8)(III) brings rent accruing after the filing of the application till the date of determination within the definition of debt. This will directly interfere with the collection of rent, as the time between the application and the date of determination will necessarily be a long one and the debtor will naturally withhold payment of such rent on the ground that it will form part of the award. So some provision should be made to realise rent which has not been mentioned in the application during the pendency of the application.

In clause 2(8)(III) after the word "when" the following words be added, namely, "An application is made under section 9 or 9A" and the words "A Board determines the amount of debts under section 18" be deleted.

In clause 9(6) in the last line the words "Sub-section (2) of" be deleted.

In clause 13(3) substitute the word "Shall" for the word "May."

In clause 18, the following proviso be added after sub-clause (4):—

"Provided that if a debtor does not pursue the application after such determination, the Board shall, upon the application by a creditor, make an award for the entire amount so determined or else such determination of debts will cease to subsist and the parties will be relegated to the original position."

At the end of clause 20 the word "Two years" be substituted for "Ten years."

At the end of clause 22 the following explanation be added:—

"The words 'unsecured debt' in this clause have the same meaning as in the explanation under clause 19."

Clause 28.—At the beginning of the clause add the following words:—

"Except as provided for in section 23A."

At the end of the clause 31(b) add the following:—

"Unless it is proved to the satisfaction of the civil court that there were sufficient reasons for non-production of the documents before the Board."

Minute of dissent by Mr. Ananda Mohan Poddar, M.L.C.

I send my note of dissent on some of the provisions of the Bill as settled by the Select Committee. I reserve the right to deal with the other provisions at proper time.

Public opinion as we find in the circulated papers is strongly against the various provisions of the Bill. Before introducing a measure comprising so many important changes in the existing civil law, it would have been proper if the opinion of the Hon'ble High Court, the highest Judiciary in the land, as well as of the District Judicial Officers, had been ascertained. This should be done even at this stage and before the Bill is put on the Legislative anvil.

The Government would have done better if it had examined the recommendations of the Central Banking Enquiry Committee regarding debt conciliation and ascertained how far the Government are in a position to act in accordance with these recommendations. I would quote a few observations made by the said Committee in this connection:—"The general experience recorded in all these provinces has been that any scheme of debt conciliation could not succeed until adequate organisation for carrying out debt clearance has been built up, and unless some agency like the Government or the co-operative credit societies or land mortgage banks where they exist is forthcoming to make cash advance to the debtors, in order to enable them to pay the compound debt, at least in part, to the creditor. The Central Provinces Committee are satisfied that many creditors would readily agree to accept in full satisfaction of their dues considerably less sums if paid down in cash. They also express the hope that the District Development Boards and those assisting in the campaign of rural reconstruction would be able to help in evolving a scheme of debt redemption. The Punjab Committee report that their evidence leads them to believe that in many cases the money-lender is finding recovery increasingly difficult and is more disposed than ever before to compound his claims. It is thought, they say, that he would agree to substantial reductions if he were given an assurance that the amount finally settled would be repaid by a fixed date without further effort on his part; and it is suggested that the best way of giving him this assurance would be to allow him to transfer his debt, or such part of it as could not be paid at once, to the co-operative society as a deposit which would be repayable *pari passu* with the instalment fixed for the debtor, subject to a maximum period of, say, ten years." (Paragraph 90 of the Report.) It is the duty of the Government to give effect as far as possible to the recommendations of the Committee set up by the Government for the purpose. So far as we have been able to ascertain from the Hon'ble Member in charge of the Bill, the Government of Bengal are not prepared to shoulder any financial responsibility for the successful working of the proposed Act. This makes me very diffident as to the success of debt conciliation measures in Bengal.

The Government of Bengal in asking the creditors to make sacrifice in order to give relief to the debtors are themselves keeping aloof and refuse to find out money for the purpose. This is simply to rob Peter to pay Paul. I am sorry to have to observe that this attitude of the Government will kill the rural credit of Bengal.

Clause 1, sub-clause (3).—The Bill being an emergency measure, the duration of its application should be restricted accordingly. It should be provided that the Act shall remain in force in a notified area for a limited period only.

Clause 2, sub-clause (8).—I object to the inclusion of a decree or order of a Civil Court to the definition of debt except for the purpose of Clause 19 (1) (a), i.e., for amicable settlement.

Clause 2, sub-clause (8) (ii).—Debt incurred by an agriculturist for the purpose of trade should not be included in the definition of debt. I want to retain the original sub-clause (8) (i).

Clause 3.—The Boards should be established in district towns and at the subdivisions and not in the interior. In these days of easy communication there would be little or no difficulty for the parties to attend such Boards in towns. This will prevent the parties from falling into the clutches of the village touts. If the Boards are situate in the towns away from the rural areas they will be free from any local influence that may be exercised upon them for either party, whereas on the other hand, if they require, they may avail of legal help or of the help from the intelligentsia of the town.

Clause 3, sub-clause (2).—It is nowhere suggested in the Bill that the Chairman or the members of the Board will be men of judicial or legal experience. Many intricate questions of law arise in rent suits and mortgage suits as well as on suits on promissory notes. The Bill as a whole proposes to oust the civil courts of their jurisdiction in these days when people cry hoarse for the separation of executive and judicial functions. It is certainly undesirable to divest the civil courts of their jurisdiction and to place civil matters in the hands of laymen or executive or revenue officers who are generally devoid of legal training. The contemplated Boards that will be vested with arbitrary powers may not be immune from abuses that are rampant in union courts in rural areas. For these reasons, the Chairman at least should be a person with some judicial experience, and the qualifications of the Chairman should be laid down in the Act itself, and not left to be regulated by rules.

Clause 12.—The manner of serving the notice should be embodied in the Act itself and should not be left for rules. The notice must be by registered post under this clause as well as under clauses 13 and 23.

Clause 13, sub-clause (3).—Under clause 9 either the debtor or the creditor may apply to the Board; in the case of the creditor's application if the debtor defaults, the application is to be dismissed; but in the case of the debtor's application, if the creditor defaults, the latter will be made to suffer inasmuch as under clause 13(2) the amount stated in the debtor's application is to be taken as correct.

This is against all principles of equity or justice. If you allow the creditor to apply, then in all fairness, the same rule should be allowed to prevail and if the debtor defaults, the amount stated in the creditor's application should be taken as correct on the analogy of clause 13(2).

I strongly object to this sort of discrimination.

Clause 19.—This clause provides for the settlement of debts either amicably or otherwise. So far as the settlement is amicable or agreed there is nothing to object to. But this clause contemplates compulsion inasmuch as the non-agreeing creditors can be made bound by the terms offered by the debtor under certain conditions. The compulsion introduced under sub-clauses (b) and (c) of this clause should be made milder by providing the percentage referred to in clause (b) to be at least fifty per cent. and in clause (c) seventy-five per cent. instead of forty per cent. and sixty per cent. respectively.

Clause 20.—The grant of certificate under this clause is intended to penalise the recalcitrant creditor. It negatives the principle of the milder form of compulsion provided under clause 19(1) (b) and (c) inasmuch as it gives the Board most arbitrary powers by which an offer may be imposed upon the creditor at its discretion without any reference to the views of the creditor and if he does not accept that offer his claim is postponed up to ten years. It means that under the threat of the infliction of clause 20 the creditor will be made to agree to the terms offered by the debtor or by the Board, as the case may be. This is out and out compulsion without any restriction and is a most objectionable clause in the whole Bill and with this retained, the colour of conciliation is gone.

It should be deleted.

Clause 21.—Not only the dwelling house of the insolvent debtor will be exempted from sale but immovable property to the extent of not more than one-third or less than one acre of land shall be exempted for his maintenance.

Provision of this nature is not justifiable. There is no such provision under the ordinary law of insolvency. Its inclusion will only defeat the object of insolvency procedure and with this safeguard the debtor will readily welcome insolvency.

Even if this is to be retained, it should not be more than one-third which in no case would exceed one acre of land.

Clause 27.—Joint stock banks and co-operative credit societies should be placed exactly on the same footing, as both lend out money received from the depositors.

Clause 34 (1).—The qualification of Appellate Officer should be laid down in the Act itself. It is necessary that he should be an experienced judicial officer not below the rank of a Subordinate Judge.

Clause 37.—The legal practitioners will be debarred from appearing before the Board and the Appellate Officers. Intricate questions affecting the rights of various parties will have to be considered by the Board and the Appellate Officers and the lawyers will be of great assistance to them. Without the help of the lawyers, the parties will not be properly represented and the door will be wide open to village touts.

Clause 46.—The Bill leaves many things with the Local Government under the rule-making clause. The functions of the Legislature should not be usurped in this way. This is undoubtedly very drastic as placing the rights of the creditors and debtors at the discretion of a few executive officers of the Local Government.

Minute of dissent by Haji Badi Ahmed Chowdhury, M.L.C.

Clause 1 (2).—It should extend to the whole of Bengal; if Calcutta is to be excluded, I suggest that other municipalities should also be excluded.

Clause 3 (1).—The Local Government may by notification establish at least one or more Debt Settlement Boards in each of the thanas.

(2) Of the four members to be appointed two must be non-official—one district board or local board member who is elected by the agriculturists, creditors, debtors and others.

Clause 21(1) (b).—Before passing orders for sale of two-thirds of immovable properties the consent of the debtor should be obtained; if no consent be given, Board should order for repayment of his debts by sale of half of the produce of his properties.

Minute of dissent by Maulvi Abul Quasem, M.L.C.

I do not agree with all the provisions contained in clause 9A (2), particularly the proviso. An agricultural debtor is being granted relief all right but the person, a non-agriculturist, who by standing surety for him helped him to get a loan and tide over his difficulty, is being left to shift for himself. The creditor will proceed against him and realize all his dues from him but he (the surety) will never be able to reimburse himself for what he will have to pay on account of the principal debtor. The curious and unfortunate result will be that the man who befriended the agricultural debtor when he was in dire need of money will be penalised. This is, to say the least, most unfair. The Bill is designed to help the agricultural debtor, not to punish his friends in need. I am strongly of opinion that the relief which is being granted to the debtor should be extended to his surety also.

The other points on which I differ from the recommendations of the Select Committee I will bring up in the Council in the shape of amendments.

**THE BENGAL [RELIEF OF INDEBTEDNESS] AGRICULTURAL
DEBTORS BILL, 1935.**

CONTENTS.

CLAUSE.

1. Short title, extent and commencement.
2. Definitions.
3. Establishment of Debt Settlement Boards.
4. Power of Local Government to cancel appointments of Chairman and members of, or to dissolve, a Board.
5. Delegation of power to Commissioner.
6. Tenure of office.
7. [*Commissioner*] Local Government may invest Boards with certain powers.
- [8. *Certain Boards may withdraw applications from other Boards.*]
9. Application for settlement of debts.
- 9A. Application for settlement of joint debts.
10. Form and verification of application.
11. Statement of debt to be included in application.
12. Procedure on receipt of application.
13. Further statements of debts.
14. Production of documents.
15. Board to attempt amicable settlement.
16. Power of Board to require attendance of persons and production of documents and to receive evidence.
17. Dismissal of applications.
18. Determination of amounts of debt.
19. Settlement of debts.
- 19A. Decision by Board as to whether a person is a debtor.
20. Grant of certificate in respect of certain debts.
21. Adjustment of an insolvent debtor's debts.
- 21A. Bar to application of sections 19, 20 and 21 to rents, etc.
22. Exemption of certain property of an insolvent debtor from sale.
23. Awards.
- 23A. Special provision for arrears of rent.
24. Existing mortgages, etc., to subsist.
- 24A. Passing of land sold for arrears of rent or by a certificate-officer.
25. Recovery of amounts included in an award.
26. Distribution of sale proceeds.
27. Settlement of debts of a member of a co-operative society.
- 27A. Stay of proceedings before the Board.
28. Bar to suits and proceedings in Civil and Revenue Courts.
29. Stay and abatement of suits and proceedings.
30. Bar to execution of certain decrees and certificates.
31. Certain decrees to be treated as nullities.
32. Attachment of debtor's immovable property.
33. Bar to appeal or revision.
- 33A. Transfer of application from one Board to another.
34. Appeals.
- 34A. Power of Appellate Officer to transfer applications.
- 34AA. Reference to Appellate Officer.
35. Control over Board.
36. Power of Board to review its order.
- 36A. Certain Acts not to apply to the proceedings under this Act.
37. Appearance of party before Board [*or Appellate Officer by agent but not by legal practitioner*] by an agent.
38. Registration of awards and certificates.
39. Publication of orders and awards.
40. Chairman and members of Boards deemed to be public servants.
41. Proceedings deemed to be judicial proceedings.
42. Indemnity.
43. Extension of period of limitation.
44. Negotiability of awarded amounts.
45. Penalties.
46. Power to make rules.
47. Penalty for breach of rules.

**THE BENGAL [RELIEF OF INDEBTEDNESS]
AGRICULTURAL DEBTORS BILL, 1935.**

*(Embodying amendments recommended by the Select
Committee.)*

[NOTE.—All matter omitted by the Select Committee has been printed in italics and enclosed in square brackets and all new matter inserted has been underlined.]

A

BILL

*to provide for the relief of indebtedness of agricultural debtors
in Bengal.*

WHEREAS it is expedient to provide for the relief of indebtedness of agricultural debtors and to amend the law governing the relations between agricultural debtors and their creditors;

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act;

5 & 6 Geo.
V, c. 61;
6 & 7 Geo.
V, c. 37;
9 & 10
Geo. V, c.
101.

It is hereby enacted as follows :—

Short title,
extent and com-
mencement.

1. (1) This Act may be called the Bengal [*Relief of In-*
debtedness] Agricultural Debtors Act, 1935.

(2) It extends to the whole of Bengal except Calcutta as defined by clause (11) of section 3 of the Calcutta Municipal Act, 1923.

[Cf. Ben.
Act XV of
1932,
s. 1(2).]
Ben. Act
III of 1923.

(3) It shall come into force in such areas on such dates as the Local Government may, by notification, direct.

[Cf. Ben.
Act XIV
of 1935,
s. 1(3).]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "agriculture" includes horticulture and dairy farming and the use of land for any purpose of husbandry inclusive of the keeping or breeding of livestock, poultry or bees and the growing of fruits, vegetables and the like;

(2) "amount payable under an award" means an amount included under clause (c) of sub-section (1) of section 23 in an award as payable by a debtor in respect of any debt, or any part of such amount which remains unpaid, together with any interest on such amount or part thereof which is due under the award.

(3) "Appellate Officer" means an officer appointed under section 34;

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clause 2.)

(4) "award" means an award as made by a Board under sub-section (3) of section 19 or sub-section (3) of section 21, or as confirmed or modified by an Appellate Officer under sub-section (4) of section 34 ;

(5) "Board" means a Debt Settlement Board established under sub-section (1) of section 3, and includes a Collector authorised or an officer [person] appointed under the proviso to section 4. [Cf. C. P. Act II of 1933, s. 2 (c).]

(6) "Certificate-officer" means a Certificate-officer as defined in the Bengal Public Demands Recovery Act, 1913 ; Ben. Act III of 1913.

(7) "Collector" includes any officer appointed by the Local Government to exercise any of the powers of a Collector under this Act ;

(8) "debt" includes all liabilities of a debtor in cash or in kind, secured or unsecured, whether payable under a decree or order of a Civil Court or otherwise, and whether payable presently or in future, but does not include the following :— [Cf. C. P. Act II of 1933, s. 2(e).]

(ai) any amount the liability for the payment of which is only contingent ;

[(i) any debt incurred for the purpose of trade,

(ii) any amount due as arrear of wages,]

(iii) any rent not due at the time when a Board determines the amount of debts under section 18,

(iiia) any share of the produce of land payable on account of land cultivated under the system known as adhi, barga or bhag ;

[(iv) any amount recoverable as a public demand, except an amount referred to in sub-section (1) of section 25 and arrears of rent payable on account of the use or occupation of land held by a tenant,]

(iv) any amount recoverable as a public demand, except—

(a) an amount referred to in sub-section (1) of section 25, and

(b) arrears of rent payable on account of the use or occupation of land held by a tenant,

(v) any amount a suit or application for the recovery of which is barred by limitation ; or

[(vi) any debt due to the Imperial Bank of India ; or

(vii) any debt chargeable with interest at a rate not exceeding the prescribed rate which is due to any banking company registered under the Indian Companies Act, 1913, or any other law for the time being in force in British India relating to companies ;]

(va) any debt due to any bank included in the second schedule to the Reserve Bank of India Act, 1935 ; II of 1935.

[(9) "debtor" means a debtor whose primary means of livelihood is agriculture, whether he cultivates with his own hands or not and if any question arises in connection with proceedings before a Board under this Act whether the primary means of livelihood of any person is agriculture or not the decision of the Board shall be final ;] [Cf. Pun. Act VII of 1934, s. 7 (2).] [Cf. Ben. Act VI of 1880 ; s. 3.]

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 3—4.)

(9) "debtor" means a debtor whose primary means of livelihood is agriculture and who—

(a) is a *raiyat* or an *under-raiyat*, or

(b) cultivates land himself or by members of his family or by hired labourers or by *adhiars*, *bargadars* or *bhagdars* ;

and includes a group of persons who join in making an application under the provisions of sub-section (1) of section 9A.

(10) "loan" means a loan whether of money or in kind, and includes any transaction which is, in the opinion of a Board, in substance a loan ;

[Cf. Pun. Act VII of 1934, s. 2 (2).]

(11) "notification" means a notification published in the *Calcutta Gazette* ;

(12) "prescribed" means prescribed by rules made under this Act ;

(13) "settlement" includes an amicable settlement and a settlement or adjustment made by order of a Board.

(14) "supplementary income" means any income derived by the debtor from any source other than agriculture ;

(15) "total debt" means the sum total of all debts as determined under section 18 ;

(16) the expressions "landlord," "*raiyat*," "*under-raiyat*" and "rent" have the same meanings as in the Bengal Tenancy Act, 1885.

VIII of 1885.

Establishment of Debt Settlement Boards.

3. (1) The Local Government may, by notification, establish one or more Debt Settlement Boards for any local area specified in the notification.

(2) Each Board shall consist of a Chairman and [subject to the provisions of sub-section (1) of section 8,] of not more than four other members, to be appointed by the Local Government.

[Cf. Pun. Act VII of 1934, s. 8 (1)(d).]

Power of Local Government to cancel appointments of Chairman and members of, or to dissolve, a Board.

4. The Local Government may, at any time, for reasons to be recorded, in writing, cancel, by notification, the appointment of the Chairman or of any other member of a Board or dissolve any Board :

[Provided that, when a Board is dissolved, the Collector shall exercise, for the purpose of completing any work begun by the Board, such of the powers exercised by the Board as may be determined by the Local Government.]

Provided that when a Board is dissolved and it is not advisable in the opinion of the Local Government to appoint another Board forthwith, the Local Government may authorise the Collector to exercise such of the powers of the Board as may be determined by the Local Government except the power of making an award which may be exercised by an officer who has had judicial experience to be appointed by the Local Government for this purpose.

*The Bengal [Relief of Indebtedness] Agricultural
Debtors Bill, 1935.*

(Clauses 5—9.)

Delegation of
power to
Commissioner.

5. The Local Government may, by notification, delegate its powers under sections 3 and 4 to the Commissioner.

Tenure of office.

6. The Chairman and the other members of a Board shall be appointed for a term of not more than three years, but shall be eligible for reappointment.

[Cf. Pun.
Act VII of
1934, s. 8
(1) (e).]

[Commissioner]
Local Govern-
ment may invest
Boards with
certain powers.

7. The [Commissioner] Local Government may, by notification, from time to time, empower a Board to exercise all or any of the powers under [section 8,] sub-section (2) of section 9A, sub-section (2) of section 13, clause (b) or clause (c) of sub-section (1) of section 19, section 20 or sub-section (1) of section 21, and unless so empowered a Board shall not exercise any such powers.

[Certain Boards
may withdraw
applications
from other
Boards.]

8. (1) Subject to rules made under this Act, a Board if it is so empowered by a notification under section 7, may withdraw applications from any other Board specified in such notification, and may co-opt for the purpose of considering any such application two members of the Board from which it is so withdrawn.

(2) A Board, when it withdraws under sub-section (1) an application from another Board, may continue the proceedings in connection with the application from the stage which has been reached when the application is withdrawn.]

Application for
settlement of
debts.

9. (1) Subject to the provisions of section 9A [A] a debtor may make an application for the settlement of his debts to [the] a Board established for the local area within which he ordinarily resides. [or, if no Board has been established for that local area, to the Board established for any local area in which he holds immovable property but he shall not so apply to more than one Board.]

[Cf. C. P.
Act II of
1933,
s. 4(1).]

(2) If an application made by a debtor has been disposed of, the Board shall not entertain any further application from such debtor within two years of the date of the disposal of the first application.]

[Cf. Pun.
Act VII of
1934, s. 15.]

(3) Unless the debtor has already made an application under sub-section (1) any of his creditors may make an application to a Board to which the debtor might have applied under that sub-section.

(4) If applications are made [by creditors] to more than one Board in respect of the debts of the same debtor, such applications shall, [in accordance with] subject to rules made under this Act, be transferred to and dealt with by one Board.

(5) No objection as to the place of presentation of the application shall be allowed by the Appellate Officer unless such objection was taken, at the earliest opportunity, before the Board to which the application was made and unless there has been a consequent failure of justice.

(6) A Board may for good and sufficient reason entertain a further application in respect of any debt incurred before the date of a first application under sub-section (1) or sub-section (3) except when such application under either of the said sub-sections has been dismissed under sub-section (3) of section 13 or sub-section (2) of section 17.

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 9A—11.)

(7) A Board shall not entertain any further application for the settlement of any debt which has been incurred by a debtor (including any rent which has become due) after the date of application under sub-section (1) or sub-section (3).

Application for settlement of joint debts.

9A. (1) An application may be made under sub-section (1) of section 9 for the settlement of—

(a) an ancestral debt for which two or more persons are jointly liable if one of such persons is a debtor within the meaning of this Act, and they all join in making such application, or

(b) a debt for which two or more persons are jointly liable if every such person is a debtor within the meaning of this Act and they all join in making such application,

and the Board may pass orders under section 19, 20 or 21 regarding any debt to which such application relates.

(2) If a debtor within the meaning of this Act is jointly liable with other persons for any debt other than a debt for arrears of rent such debtor may make an application under sub-section (1) of section 9 for relief in respect of his liability in regard to such debt, and the Board, after consideration of the facts and circumstances of the case, may, if so empowered under section 7, pass such order as it thinks fit under section 19, 20 or 21 regarding the debt so far as such applicant is concerned and such order of the Board shall not be questioned in any Civil Court or in any manner other than that provided in this Act :

Provided that an order of the Board under this sub-section shall not affect the liability of any other person who is jointly liable with the debtor for the debt, but in no case shall the creditor to whom the debt is due be entitled to realize more than his actual dues from any such person.

Form and verification of application.

10. Every application under section 9 shall be in writing in the prescribed form and shall be signed and verified in the prescribed manner. [Cf. C. P. Act II of 1933, s. 5.]

Statement of debt to be included in application.

11. (1) An application made by a debtor under sub-section (1) of section 9 shall contain a statement of debt, in the prescribed form, which shall include the following :— [Cf. C. P. Act II of 1933, s. 6.]

(a1) the name of the place where he ordinarily resides ;

(a) the names and addresses of his creditors, the total amount claimed by each creditor to be owing to him in respect of each debt, so far as is known to the debtor, and a note whether each such claim is admitted by the debtor ;

(b) the history of each such debt with particulars of the original principal and the rate of interest chargeable ;

*The Bengal [Relief of Indebtedness] Agricultural
Debtors Bill, 1935.*

(Clause 12.)

- (bb) details of any debts for which the debtor is liable as a surety or is liable with other persons as a joint debtor or joint surety together with the names and addresses of all such persons ;
- (c) particulars of the debtor's property both movable and immovable (including claims due to him), a specification of its value and of the places where it may be found, and details of any mortgage, lien or charge subsisting thereon together with the names and addresses of the co-sharers, if any, of the debtor ;
- (cc) particulars of any property as in clause (c) which has been transferred by the debtor within two years previous to the date of his application together with the name and address of the transferee ;
- (d) particulars of any supplementary income [;] [and] of the debtor ;
- [*(e) a declaration that all claims have been inserted in the statement and that the debtor is unable to pay his debts.*]
- (e) a declaration that all his debts and all his properties have been included in the statement ; and
- (f) a declaration that agriculture is the primary means of livelihood of the debtor, and that he is unable to pay his debts.

(2) An application made by a creditor under sub-section (3) of section 9 shall contain a statement of debt, in the prescribed form, which shall include the following :—

- (1a) the name of the place where the debtor ordinarily resides ;
- (a) the total amount of every debt claimed by [him] the creditor to be owing to him from the debtor ;
- (b) the history of each such debt with particulars of the original principal and the rate of interest chargeable ;
- (bb) the names and addresses of the other creditors, so far as they are known to the creditor ;
- (c) particulars, so far as they are known to the creditor, of the debtor's property, as in clause (c) of sub-section (1) ;
- (d) particulars, so far as they are known to the creditor[s], of any supplementary income of the debtor ; and
- (e) a declaration that agriculture is the primary means of livelihood of the debtor.

Procedure on receipt of application.

12. (1) On receipt of an application under section 9 [O. C. P. the Board shall pass an order fixing a date and place for Act II of examining the applicant, unless the application is dismissed 1933, s. 7.] forthwith under section 17.

(2) The Board shall, in the prescribed manner, give notice of such order to the debtor (if he is not himself the applicant) or (if the debtor is the applicant) to [the creditors named] all persons whose names and addresses are given in the application.

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clause 13.)

(3) The applicant shall be examined on oath or affirmation on the date fixed under sub-section (1) or on such other date as the Board may fix and a memorandum of the substance of the statement made by the applicant shall be recorded in writing by the Board.

Further statements of debts.

[13. (1) *If, after examining the applicant, the Board considers it desirable to effect a settlement of debts, it shall issue and publish in the prescribed manner a notice that, within two months of the date of publication of such notice, the debtor (unless the debtor is himself the applicant) and every creditor shall submit a statement of debt in the prescribed form :*]

[Cf. C. P. Act II of 1933, s. 8.]

13. (1) If after examining the applicant, the application is not dismissed forthwith under section 17, the Board shall, in the prescribed manner, serve a notice on the debtor (unless the debtor is himself the applicant) and on every creditor named in the application and also publish a general notice requiring the debtor and all creditors to submit a statement of debt in the prescribed form within one month of the date of service of the notice, or publication of the general notice, whichever is later :

Provided that, if the Board is satisfied that the debtor or any creditor [was] is for good and sufficient cause unable to comply with such notice, it may extend the period for the submission of his statement of debt.

(2) If any creditor fails to comply with a notice under sub-section (1), the Board, if so empowered under section 7, may pass an order in writing declaring that the amount of any debt due to him from the debtor on the date of such order shall, for the purposes of this Act, be deemed to be the amount stated in the statement of debt submitted by the debtor, and that no debt of which the creditor has failed to submit a statement, other than a debt which the debtor has included in his statement of debt shall be payable ;

and such order shall not be questioned in any Civil Court or in any manner :

[Provided that an order made under this sub-section may be varied or reversed by the Board on an application for review or by the Appellate Officer on appeal if the creditor proves to the satisfaction of the Board or of the Appellate Officers, as the case may be, that the creditor had no knowledge of the notice under sub-section (1) or that he has complied with it.]

(3) If any debtor fails to comply with a notice under sub-section (1), the Board shall dismiss the application and may allow against the debtor such costs as the Board considers reasonable :

Provided that an order made under sub-section (2) or sub-section (3) may be varied or reversed by the Board on an application for review or by the Appellate Officer on appeal if it is proved to the satisfaction of the Board or of the Appellate Officer that the creditor or debtor, as the case may be, had no knowledge of the notice under sub-section (1) or that he has complied with it or that he had sufficient reason for non-compliance :

Provided further that when a Board has ceased to exist an order made under sub-section (2) or sub-section (3) may be varied or reversed by the Appellate Officer on an application if it is proved to his satisfaction that the creditor or

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 14—17.)

debtor, as the case may be, had no knowledge of the notice under sub-section (1) or that he has complied with it or that he had sufficient reason for non-compliance.

Production of documents.

14. (1) When a creditor has submit[s]ed to the Board a statement of debt under sub-section (2) of section 11 or sub-section (1) of section 13, the Board shall fix a date for the production of all documents (including entries in books of account) by which the creditor intends to prove any debt owing to him together with a true copy of each such document. [Cf. C. P. Act II of 1933, s. 9.]

(2) The Board shall mark in the prescribed manner each original document so produced, keep the copy after verifying its correctness, and return the original to the creditor.

(3) No document relating to a debt regarding which a creditor has failed to submit a statement under sub-section (2) of section 11 or sub-section (1) of section 13, and no document which being in the possession or under the control of the creditor has not been produced by him as required by sub-section (1), shall be admissible in evidence against the debtor or his successor in interest in any suit by the creditor or by any person claiming under him for the recovery of the debt to which such document relates unless it is proved to the satisfaction of the Civil Court that there were sufficient reasons for non-production of the document before the Board.

Board to attempt amicable settlement.

15. Subject to any rules made under this Act, the Board shall call upon the debtor and each creditor to explain his case regarding each debt, and shall use its best endeavours to induce them to arrive at an amicable settlement. [Cf. C. P. Act II of 1933, s. 10.]

Power of Board to require attendance of persons and production of documents and to receive evidence.

16. (1) Subject to rules made under this Act, a Board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a Civil Court by the Code of Civil Procedure, 1908. [Cf. C. P. Act II of 1933, s. 11; Pun. Act VII of 1934, s. 16.]

(2) Any person present may be required by a Board to furnish any information or to produce any document then and there in his possession or power. [Cf. C. P. Act V of 1908.]

Dismissal of applications.

17. (1) An application under section 9 may be dismissed by the Board, at any stage of its proceedings, in respect of all or any of the debts to which it relates,— [Cf. C. P. Act II of 1933, s. 14; Pun. Act VII of 1934, s. 18.]

(a) if, for reasons to be stated in writing, the Board does not consider it desirable or practicable to effect a settlement of debts, or

(b) if, in the opinion of the Board, the applicant fails to pursue his application with due diligence, or

[Provided that, when such applicant is a creditor, the Board, instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Act.]

(c) the debtor is attempting to use the provisions of this Act with a view to defraud any creditor.

[(2) The Board shall dismiss an application under section 9 if it includes a claim which, in the opinion of the Board, is collusive and intended to defraud any creditor.]

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 18, 19.)

(2) An application under section 9 shall be dismissed by the Board, if in its opinion—

- (a) such application includes a claim which is intended to defraud any creditor ; or
- (b) there has been transfer of any property by the debtor within two years previous to the date of such application with a view to defraud any creditor.

Determination of amounts of debt.

18. (1) If [the debtor and a creditor are unable to agree] there is any doubt or dispute as to the existence or amount of any debt, the Board shall decide whether the debt exists and determine its amount :

Provided that a decree of a Civil Court relating to a debt shall be conclusive evidence as to the existence and amount of the debt as between the parties to the decree.

(2) Before passing any order under section 19, 20, or 21 the Board, after considering the statements of debt submitted under section 11 and sub-section (1) of section 13 and after hearing the parties and considering the evidence produced shall, in accordance with rules made under this Act, determine in respect of each debt the amount of the principal and the amount of the arrears of interest due thereon up to the date of such determination.

(3) In determining the original principal of a debt for the purposes of proviso (ii) to clause (b) of sub-section (1) of section 19, the Board shall determine the amount of the original loan, after excluding any amount of interest on such loan which may at any time have been included as principal; and the difference between the original principal and the amount of the debt shall be deemed to be the arrears of interest due thereon.

[Provided that where there is no independent proof of the amount of the original principal of the debt and the debtor and creditor are unable to agree as to such amount, the amount shown as the principal in the bond, if any, relating to the debt shall be determined to be the original principal, unless the recital in the bond indicates that the principal mentioned in the bond includes any arrears of interest.]

(4) When the Board has determined under this section the amounts of the principal of a debt due from a debtor and of the arrears of interest due thereon, the decision of the Board in this respect shall not be questioned in any Civil Court or in any manner other than that provided in this Act.

Settlement of debts.

19. (1) Subject to rules made under this Act—

- (a) when any creditor agrees in respect of any debts owing to him to an amicable settlement with the debtor, the Board shall embody such settlement in writing *[and may dismiss the application in respect of the remaining debts of the debtor];* or
- (b) when creditors to whom is owing not less than forty per cent. of the *[total debt is owing]* total secured or unsecured debts, as the case may be, agree to an amicable settlement with the debtor, the Board, if it is so empowered under section 7 and if it considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement is a fair offer which the creditor concerned ought reasonably to accept, may pass an order that the debt to which the offer relates shall be settled in accordance with such offer : *[and may dismiss the application in respect of the remaining debts :]*

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 19A, 20.)

Provided that for the purpose of this clause an offer shall not be considered by the Board to be a fair offer—

(i) if its terms are less favourable than the terms of the amicable settlement relating to [a debt of the same description,] secured or unsecured debt, as the case may be, or

(ii) if it contemplates the reduction of any debt to an amount which is less than the original principal of the debt as determined under sub-section (3) of section 18; or

(c) when creditors to whom is owing not less than sixty per cent. of the [total debt is owing] total secured or unsecured debts, as the case may be, agree to an amicable settlement with the debtor, the Board, if it is so empowered under section 7, may pass such order as it thinks fit regarding the terms on which the remaining debts of the debtor shall be settled:

Provided that such terms shall not be less favourable than the terms embodied in the amicable settlement under this clause for a [debt of the same description.] secured or unsecured debt as the case may be, and the terms are in the opinion of the Board fair terms which the creditor concerned ought reasonably to accept.

[(2) Notwithstanding anything contained in sub-section (1), the amount of the principal of any debts due in respect of arrears of rent or under section 171 of the Bengal Tenancy Act, 1885, shall not be reduced under clause (b) or clause (c) of sub-section (1) except by an amicable settlement.]

VIII of 1885.

(3) The terms of any settlement of debts under sub-section (1) shall be embodied in an award to be made by the Board. *[in this behalf.]*

Explanation.—The words “secured debt” in this section mean a debt owing to a creditor holding a mortgage, charge or lien on the property of a debtor or any part thereof as a security for the debt and includes any arrears of rent due to a landlord, and the words “unsecured debt” means any other debt.

(Cf. Act V of 1920, s. 2 (e) and V of 1898, s. 4 (1) (b).)

Decision by Board as to whether a person is a debtor.

19A. If any question arises in connection with proceedings before a Board under this Act, whether a person is a debtor or not, the Board shall decide the matter.

Grant of certificate in respect of certain debts.

20. Subject to any rules made under this Act, if any creditor does not accept an offer made by the debtor which in the opinion of the Board is fair and such as the creditor ought reasonably to accept, the Board if it is so empowered under section 7, instead of passing any other order which it is competent to pass, may grant to the debtor a certificate in the prescribed form in respect of the debt to which the offer relates,

and thereafter, notwithstanding the provisions of any law for the time being in force, no Civil Court shall allow to the plaintiff, in any suit for the recovery of such debt, any costs in such suit or any interest on the debt after the date of

*The Bengal [Relief of Indebtedness] Agricultural
Debtors Bill, 1935.*

(Clause 21.)

such certificate in excess of simple interest at the rate of six per cent. per annum on the [amount due on the date of such certificate] principal of such debt as determined under sub-section (2) of section 18, and no decree for the recovery of such debt shall be executed until all amounts payable, in respect of other debts of the debtor, under an award have been paid, or such award has ceased to subsist under sub-section (4) of section 26, or, if there is no award, until the expiry of such period not exceeding ten years as may be specified in the certificate.

Adjustment of
an insolvent
debtor's debts.

21. (1) When the Board is satisfied that the debts of a debtor are such that they cannot be reduced under the provisions of section 19 to an amount which he will be able to repay within twenty years, and that the debtor is a fit person to be given the benefit of this section, the Board if it is so empowered under section 7, may, subject to rules made under this Act and after considering all the circumstances of the debtor, pass an order declaring that the debtor is insolvent, and

- [(a) directing that such movable and immovable property of the debtor as it may specify in the order, after excluding such land as in the opinion of the Board is sufficient for the maintenance of the debtor, shall be sold forthwith and the proceeds distributed among the creditors in such proportions as the Board may determine; or
- (b) reducing the debts of the debtor to such amounts as it considers that he can pay within the period mentioned in the order, and directing that the total debt as so reduced, shall be paid by the debtor in equal annual instalments.]

(a) reducing his debts to such amounts as it considers that he can pay within a period not exceeding twenty years, to be mentioned in the order and directing that the debts as so reduced shall be paid in equal annual instalments :

Provided that each such instalment shall be fixed by the Board at an amount which, in the estimation of the Board, is likely, in a year of normal harvest, to leave to the debtor as provision towards his maintenance one-half of the surplus which remains from the value of the produce of his land after paying to the landlord the current rent due for such land, or

(b) if, for reasons to be recorded in writing, the Board does not consider it desirable or practicable to reduce the debts in the manner specified in clause (a), specifying what portion of the immovable property of the debtor (including not more than one-third or less than one acre of his land) shall be excluded as provision towards his maintenance, and directing, subject to the provisions of section 22, that the balance of his property shall be sold and that the proceeds shall be utilized towards the payment of his debts in such manner as the Board may direct.

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 21A, 22).

(1a) The Certificate Officer shall, on the requisition of the Board in the prescribed form, sell the balance of the property of the debtor referred to in clause (b) of sub-section (1) in the manner provided in the Bengal Public Demands Recovery Act, 1913, and the provisions of the said Act regarding sales in execution of certificates shall, subject to the provisions of this Act, apply to such sale.

Ben. Act
III of
1913.

(2) When the property of the [debtor] insolvent referred to in clause [(a)] (b) of sub-section (1) has been sold under [that] sub-section (1a) or when the [debtor] insolvent has paid all the annual instalments or his property has been sold under section 25, the Board shall make an order of discharge and grant him a certificate of discharge in the prescribed form. Such certificate shall release the [debtor] insolvent from all debts which were or might have been included in the application under section 9 :

• Provided that if within five years of the [grant of the certificate of discharge] order declaring the debtor insolvent any property is [acquired by or devolves on the insolvent] acquired by, devolves on or is declared by a Civil Court or is discovered to belong to the insolvent debtor such property shall, on application made by a creditor to the Board, be available for distribution among the creditors of the debtor, to the extent of their debts, in such manner as the Board may direct.

(3) An order passed by a Board under sub-section (1) shall be embodied in an award to be made by the Board. [in this behalf.]

Bar to application of sections 19, 20 and 21 to rents, etc.

21A. The provisions of sections 19, 20 and 21 shall not apply to the amount of the principal of any debt due in respect of arrears of rent or under section 171 of the Bengal Tenancy Act, 1885, nor shall such amount be reduced under clause (b) or clause (c) of sub-section (1) of section 19 or under section 21 except by an amicable settlement.

VIII of
1885.

Exemption of certain property of an insolvent debtor from sale.

22. (1) When a debtor is declared insolvent under sub-section (1) of section 21, the Board shall, in the prescribed manner, determine what portion of his immovable property shall be deemed to be the dwelling house of the debtor for the purposes of this Act.

(2) Such dwelling house shall be exempt from sale under [clause (a) of] sub-section [(1)] (1a) of section 21 or sub-section (3) of section 25 for the recovery of any unsecured debt, and, notwithstanding anything, contained in any other Act, the debtor shall be incompetent to mortgage, charge, lease or alienate the same in any way until he is granted a certificate of discharge under sub-section (2) of section 21.

(3) Notwithstanding anything contained in any other Act, no part of the property of a debtor who has been declared insolvent under sub-section (1) of section 21 shall be exempt from sale under [clause (a) of] sub-section [(1)] (1a) of that section or under sub-section (3) of section 25 except such movable property as shall be prescribed and, subject to the provisions of sub-section (2), his dwelling house as determined under sub-section (1).

[(4) The Local Government shall, by rule, prescribe what movable property of debtors who have been declared insolvent under sub-section (1) of section 21 shall be exempt from sale under clause (a) of sub-section (1) of section 21 or under section 25.]

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clause 23.)

Awards.

23. (1) An award shall be in the prescribed form and shall include the following particulars :—

(a) a list of the immovable properties of the debtor with particulars of any mortgage, lien or charge subsisting thereon ;

(a1) a list of the movable properties of the debtor on which there is any mortgage, lien or charge with particulars of such mortgage, lien or charge,

(b) details of the total debt as determined under section 18 ;

(c) the amount to be paid to each creditor for each debt owing to him under the terms of an amicable settlement or of an order of the Board under section 19 or section 21 ;

(d) the manner and the order in which and the times at which the amounts referred to in clause (c) shall be paid :

Provided that such amount shall be paid in the following order, namely :—

First—(i) any amount payable for arrears of rent, and

(ii) any amount due to the Local Government and included in a certificate issued under the Bengal Public Demands Recovery Act, 1913 ;

Ben. Act
III of 1913.

Second—any amount payable to creditors on account of debts which are secured by a mortgage, lien or charge on a property ;

Third—any amount payable on account of an unsecured debt for which a decree has been passed by a Civil Court ; and

Fourth—any amount payable on account of any other debts.

(e) the rate of interest payable on each amount referred to in clause (c) except where such amount is to be paid in the form of equated payments or an order is passed under clause (a) of sub-section (1) of section 21 for the sale of the property ;

(f) an order that all the properties mentioned in the list referred to in clause (a) or clause (a1) except such properties as are exempt from sale shall, subject to any mortgage, lien or charge subsisting thereon, be security for the amounts payable under the award.

(2) At a place and time of which notice shall be given to the parties in the prescribed manner, the award shall be explained to the parties present and shall be signed by the Board ; but the validity of an award shall not be affected by the absence of any of the parties.

(3) From the date of the signing of the award under sub-section (2) it shall, in supersession of all previous decisions of a Civil Court in respect of the debts mentioned in it, be binding on the debtor and his creditors and the successors in interest of such debtor and creditors.

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 23A—25.)

Special provision for arrears of rent.

23A. Notwithstanding anything contained in this or any other Act—

(a) if any rent due for a land mentioned in the list referred to in clause (a) of sub-section (1) of section 23 is in arrears the landlord may include the amount of arrears of rent payable under such award in a suit for the recovery of arrears of rent of such land ;

(b) if any land referred to in clause (a) is advertised for sale in execution of a decree for arrears of rent any creditor to whom any amount is due under such award may pay into the Court the amount requisite to prevent such sale and thereupon the amount so paid shall be included by the Board in the award in accordance with rules made under this Act, as an additional amount due to such creditor and such amount shall take priority of every other debt payable under the award.

Existing mortgages, etc., to subsist.

24. When an award is made as regards any debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall subject to the provisions of section 24A subsist to the extent of the amount payable in respect of such debt under the award until such amount has been paid or the property has been sold for the satisfaction of such debt.

Passing of land sold for arrears of rent or by a Certificate-officer.

24A. Where a land mentioned in the list referred to in clause (a) of sub-section (1) of section 23 is sold for arrears of rent or such land is sold by a Certificate-officer under the provision of this Act then notwithstanding anything contained in this Act the provisions of Chapter XIV of the Bengal Tenancy Act, 1885, shall so far as may be, apply to such sale.

VIII of 1885.

Recovery of amounts included in an award.

25. (1) If by the date fixed the debtor fails to pay any amount payable under an award such amount shall be recoverable as a public demand on application made within the prescribed period by [the] a creditor to whom the amount is due. [Cf. C. P. Act II of 1933, s. 13 (1).]

If the creditor does not so apply such amount shall, for the purposes of clause (iii) of section 30, be deemed to be a debt incurred by the debtor after the date of the signing of the award.

[(2) Subject to any rules made under this Act the Certificate-officer, if satisfied that there is good reason for the failure to pay by the fixed date, may allow time to the debtor within which to pay any amount due. If the Certificate-officer does not thus allow time or if the debtor fails to pay within the time allowed, the Certificate-officer shall proceed to recover the amount in the manner provided in the Bengal Public Demands Recovery Act, 1913 :] [Ben. Act III of 1913.]

(2) Subject to any rules made under this Act the Certificate-officer, if satisfied that there is good reason for the failure to pay by the fixed date, may allow time to the debtor within which to pay any amount due. If the Certificate-officer thus allows time, he may, if he thinks fit, further direct that a similar period of time shall be given to the debtor after the

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clause 26.)

time fixed in the award for payment of any other amount payable thereunder, within which to make such other payment, and the award shall be deemed to be modified accordingly.

(2a) If the Certificate-officer does not allow time under sub-section, (1), or if the debtor fails to pay within the time allowed, the Certificate-officer shall proceed to recover the amount in the manner provided in the Bengal Public Demands Recovery Act, 1913 :

Ben. Act
III of
1913.

Provided that, if such debtor has been declared insolvent under section 21, the Certificate-officer after allowing such time, if any, as he thinks fit, shall, forthwith, subject to the provisions of section 22, sell all the property of the debtor.

(3) Subject to the proviso to sub-section (2), if the Certificate-officer fails to recover the full amount in respect of which an application has been made under sub-section (1) by sale of the movable property or agricultural produce of the debtor, he shall sell [all the immovable property of the debtor] such portion of the immovable property of the debtor as will be sufficient to pay all amounts payable under the award except such property as is exempt from sale under the provisions of the Bengal Public Demands Recovery Act, 1913.

(4) When the Certificate-officer sells the immovable property of a debtor under sub-section (1a) of section 21 or under sub-section (3) of this section he shall keep a separate account of the proceeds realised from the sale of any portion of such property upon which a mortgage, lien or charge is shown as subsisting in the list included in the award under clause (a) of sub-section (1) of section 23.

(5) If any debt in respect of which no amount is payable under the award, is secured by a mortgage, lien or charge shown in such list, the Certificate-officer shall sell the immovable property subject to such mortgage, lien or charge, unless a decree of a Civil Court for the recovery of the debt is outstanding in respect of such property. If such a decree is outstanding the Certificate-officer shall distribute the sale proceeds in accordance with the provisions of clause (a) of sub-section (2) of section 26.

Distribution of
sale proceeds.

26. (1) When a Certificate-officer has sold under sub-section (1a) of section 21 or under sub-section (3) of section 25 all the property of a debtor which is liable to sale, he shall first pay from the proceeds of the sale—

(1a) any amount payable as costs of sale in execution of the certificate ;

(a) any amount payable for arrears of rent under the award [or under a decree for arrears of rent passed by a Civil Court after the date of signing of the award or under a certificate for arrears of rent issued after that date under the Bengal Public Demands Recovery Act, 1913] or any amount payable as arrears of rent which may have fallen due between the date of determination of the debt under sub-section (2) of section 18 and the date of confirmation of the sale ; and

(b) any amount due to the Local Government included [in a decree passed by a Civil Court or] in a certificate issued under the Bengal Public Demands Recovery Act, 1913.

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clause 26.)

(2) After making the payments under sub-section (1), if any, the Certificate-officer shall proceed as follows :—

- (a) he shall, in the first instance, apply the surplus of the proceeds realised from the sale of any portion of the immovable property for which he has kept a separate account under the provisions of sub-section (4) of section 25 to the payment of any amounts payable under the award or under a decree of a Civil Court to creditors on account of debts which are secured by a mortgage, lien or charge upon such property in order of priority determined in accordance with the provisions of the Transfer of Property Act, 1882, and if such surplus is insufficient to meet such payments the balance of such amounts shall rank equally with unsecured debts :

IV of
1882.

Provided that if there is any dispute or doubt as to the priority of payment of such debts the Certificate-officer shall refer the matter to the Appellate Officer who shall determine the same according to the provisions of the aforesaid Act ;

- (b) when there is a surplus after payment of the amounts referred to in clause (a), the Certificate-officer shall apply the sum of such surplus and of any proceeds realised from the sale of other property of the debtor to the payment of any other amounts payable under the award,

and if such sum is insufficient to meet such payment such other amounts and any amount payable on account of an unsecured debt for the recovery of which a decree has been passed by a Civil Court, and of which details are given in the award under clause (b) of sub-section (1) of section 23, shall rank equally between themselves for purposes of payment :

Provided that if any instalment has been paid under the award, for the year when an instalment fell due for the recovery of which application has been made under sub-section (1) of section 25, any instalment which fell due in that year, but which has not been paid, shall be given priority ;

- (c) any surplus remaining after payment of the creditors in accordance with the foregoing provisions of this section shall be paid by the Certificate-officer to the debtor.

[(3) The orders of a Certificate-officer under this section shall be subject to rules made under this Act.]

(3) The proceedings of a certificate officer under this section shall be in accordance with rules made under this Act.

(4) *[Save as provided in sub-section (2) of section 21.]* If the certificate-officer fails to recover any part of the amount recoverable as a public demand, he shall certify that it is irrecoverable ; and thereupon the award shall cease to subsist and any amount payable under the award shall be recoverable as if a decree of a Civil Court had then been passed for its payment :

Provided that when the proceeds of the sale referred to in sub-section (1) is insufficient to meet payment of the amounts payable under an award, the Certificate-officer shall inform the Board accordingly. The Board may then pass an order declaring that the debtor is insolvent and thereupon the provisions of sub-section (2) of section 21 shall so far as possible apply to such insolvent.

*The Bengal [Relief of Indebtedness] Agricultural
Debtors Bill, 1935.*

(Clauses 27—30.)

Settlement of debts of a member of a co-operative society.

27. No settlement under this Act of the debts of a member of a co-operative society registered under the Co-operative Societies Act, 1912, who owes any amount to such society, shall be valid without the previous approval in writing of a prescribed authority.

II of 1912.

Stay of proceedings before the Board.

27A. If a debtor informs the Board at the earliest opportunity that the decree referred to in the proviso to sub-section (1) of section 18 was obtained *ex parte* and that he intends to apply to the Civil Court to set it aside the Board may stay further proceedings for such time as it may consider necessary to enable the debtor to set aside the decree.

Bar to suits and proceedings in Civil and Revenue Courts.

28. No Civil or Revenue Court shall entertain a suit, application or proceeding against the debtor in respect of—

[Cf. C. P. Act II of 1933, s. 16.]

- (a) any debt included in an application under section 9 or in a statement under sub-section (1) of section 13, proceedings in connection with which are pending before a Board; or
- (b) any debt for which any amount is payable under an award, unless such award has ceased to subsist under sub-section (4) of section 26.

Stay and abatement of suits and proceedings.

29. When an application under section 9 or a statement under sub-section (1) of section 13 includes any debt in respect of which a suit or other proceeding is pending before a Civil or Revenue Court, the Board shall give notice thereof to such Court in the prescribed manner, and thereupon the suit or proceeding shall be stayed until the Board has either dismissed the application in respect of such debt or made an award thereon, and if the Board includes any part of such debt under clause (c) of sub-section (1) of section 23 in the award or the Board decides that the debt does not exist or determines its amount the suit or proceeding shall abate so far as it relates to the existence or amount of such debt:

[Provided that if such award ceases to subsist under sub-section (4) of section 26, a fresh suit or proceeding may, notwithstanding anything contained in any other Act, be instituted in respect of such debt within one year from the date on which the award ceased to subsist.]

Provided that if such award ceases to subsist under sub-section (4) of section 26 an application for the recovery of any amount which was payable under the award may, notwithstanding anything contained in any other Act, be made in a Civil Court within three years from the date on which the award has ceased to subsist.

Bar to execution of certain decrees and certificates.

30. Notwithstanding anything contained in any Act, no decree of a Civil Court or certificate under the Public Demands Recovery Act, 1913, shall be executed—

Ben. Act III of 1913.

- (i) for the recovery of a debt included in an application under section 9 or in a statement under sub-section (1) of section 13, until—
 - (a) the application has been dismissed by the Board in respect of such debt; or
 - (b) an award in which such debt is included has ceased to subsist under sub-section (4) of section 26;

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 31—34.)

(ii) except as provided in clause (a) of sub-section (1) of section 26, for the recovery of arrears of rent which became due from a debtor after the date of an application under section 9 in respect of his debts, unless notice of such decree or certificate has been given to the Board in the prescribed manner, and ~~six~~ three months have elapsed since such notice was given ;

(iii) for the recovery of a debt incurred by a debtor after the date of [the signing of an award made] an application under section 9 in respect of his debts, until all the amounts payable under the award have been paid or such award has ceased to subsist under sub-section (4) of section 26.

Certain decrees to be treated as nullities.

31. Notwithstanding anything contained in any Act any decree of a Civil Court [relating to any property that has been included in a list of property under clause (a) of sub-section (1) of section 23] passed in regard to a debt after the date of an application under section 9 shall be treated as a nullity in so far as—

(a) it is inconsistent with any order passed by a Board under sub-section (2) of section 13 regarding any debt or with any determination by the Board under section 18 of the principal and the arrears of interest of any debt included in a subsisting award ; or

(b) it relates to a debt the documents in respect of which being in the possession or under the control of the creditor have not been produced before the Board and marked by the Board as required by section 14.

Attachment of debtor's immovable property.

32. After receipt of an application under section 9 the Board may [pass an order in writing for the] attach [ment of] the immovable property of the debtor in the prescribed manner and thereupon such property shall be deemed to be under attachment under the provisions of the Code of Civil Procedure, 1908 [from a date to be specified in the order] until [the order] such attachment is withdrawn or cancelled by the Board. Act V of 1908.

Bar to appeal or revision.

33. No appeal or application for revision shall lie against any decision or order of or award by a Board except as provided in this Act. [Cf. Pun. Act VII of 1934, s. 22.]

Transfer of applications from one Board to another.

33A. (1) Subject to rules made under this Act, an application made under section 9 may be transferred to and dealt with by another Board.

(2) A Board to which an application is transferred under sub-section (1) may continue the proceedings in connection with the application from the stage which has been reached when the application is transferred.

Appeals.

34. (1) An appeal may be made in the prescribed manner to an Appellate Officer to be appointed by the Local Government against—

(a) any decision or order of a Board or of a Certificate-officer under this Act,

(b) any award,

(c) the grant of a certificate under section 20, or

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 34A—35.)

[(d) *an error or defect in any procedure of a Board, or*

(e) any failure on the part of a Board to perform its functions under this Act or any abuse by a Board of its powers:

Provided that in the case of appeals against any order under sub-section (2) of section 13, section 18, clause (b) or (c) of sub-section (1) of section 19, section 20, [or] section 21 or section 26 the Appellate Officer appointed under this section shall be [an officer] a person who has had such judicial experience as may be prescribed by rules made under this Act.

(1a) An appeal under sub-section (1) shall lie if made within thirty days of the date of the decision, order, award or certificate referred to in that sub-section.

(2) The Local Government may make rules regarding the procedure to be followed by the Appellate Officer, and for the control and inspection of his work.

(3) The Appellate Officer may after giving the appellant an opportunity of being heard reject an appeal summarily if he considers that there is no sufficient ground for interfering.

(4) If the Appellate Officer does not reject the appeal summarily, he shall hear the parties, if they appear, and consider any reasons which the Board may submit in regard to the grounds of such appeal, and may then either confirm or modify the decision or order of the Board or direct the Board to take such action as he thinks fit.

(5) The orders of the Appellate Officer shall be final.

(6) An appeal [shall] for the purpose of this section includes an application for revision.

(7) No appeal shall lie against a decision or order passed by a Board with the consent of the debtor and the creditor.

Power of
Appellate
Officer to
transfer
applications.

34A. Whenever it is made to appear to the Appellate Officer that for the ends of justice it is expedient to transfer an application made under section 9 from one Board to another, the Appellate Officer may order that the application be transferred to such other Board as may be specified in the order and unless the Appellate Officer otherwise directs the provision of sub-section (2) of section 33A shall be applicable to the proceedings in connection with such application.

Reference to
Appellate
Officer.

34AA. Subject to rules made under this Act a Board may, if it thinks necessary, make a reference to the Appellate Officer stating the question upon which his opinion, advice or direction is required and the Appellate Officer shall give his opinion, advice or direction, as the case may be, thereon as soon as possible.

Control over
Board.

35. (1) A Board shall, in all proceedings under this Act, be subject to the control of the Local Government.

(2) Any person appointed by the Local Government in this behalf may inspect or cause to be inspected any property, books or documents in the possession or under the control of the Board and require the Board to furnish such statements, accounts, reports, copies of documents or such other information relating to the proceedings and duties of the Board, as he thinks fit to call for.

[Cf. Ben. Act XIV of 1935, s. 27; Ben. Act XV of 1932, s. 545.]

The Bengal [Relief of Indebtedness] Agricultural Debtors
Bill, 1935.

(Clauses, 36—40.)

Power of Board
to review its
order.

36. Subject to any rules made under this Act, a Board may, on an application made by any person interested, review any decision or order passed by it and pass such order in reference thereto as it thinks fit : [Cf. C. P. Act II of 1933, s. 19.]

Provided that no order shall be varied or reversed unless an opportunity has been given to the persons interested to appear and be heard in support of such order.

Certain Acts not
to apply to the
proceedings
under this Act.

36A. (1) Except as otherwise provided in this Act the provisions of—

(a) the Indian Evidence Act, 1872, and

I of 1872.

(b) the Code of Civil Procedure, 1908,

Act V of
1908.

shall not apply to any proceeding before a Board.

(2) The procedure to be followed by a Board in any proceeding before it shall, subject to the provisions of this Act, be in accordance with rules prescribed under this Act.

[Appearance of
party before
Board or
Appellate
Officer by agent
but not by legal
practitioner.]

37. In any proceedings under this Act any party may, with the permission of the Board if such proceedings are before a Board, or of the Appellate Officer if such proceedings are before an Appellate Officer, be represented by an agent duly authorised by him in writing and approved by the Board or Appellate Officer, as the case may be : [Cf. C. P. Act II of 1933, s. 20.]

Provided that—

(a) no legal practitioner as defined in the Legal Practitioners Act, 1879, and

[XVIII of
1879.]

(b) no person who has been proclaimed as a tout under section 36 of the said Act,

shall be permitted to represent any party.]

Appearance of
party before
Board by an
agent.

37. In any proceedings before a Board under this Act a legal practitioner as defined in the Legal Practitioners Act, 1879, shall not be permitted to represent any party nor shall any such party be represented, without the permission of the Board, by an agent : XVIII of
1879.

Provided that a son or husband of a party shall be permitted to represent such party even if he is a legal practitioner.

Registration of
awards and
certificates.

38. (1) Every award and every certificate granted under section 20 or sub-section (2) of section 21, shall be registered under the Indian Registration Act, 1908, by the Chairman of the Board in such manner and within such period as may be prescribed. XVI of
1908.

(2) For the purpose of the registration under sub-section (1) of an award or a certificate the Chairman shall be deemed to be an officer of Government empowered to execute such instrument within the meaning of section 88 of the Indian Registration Act, 1908.

Publication of
orders and
awards.

39. A copy of any order made by a Board under sub-section (2) of section 13, and a copy of any award shall be published in such manner as may be prescribed by the Local Government.

Chairman and
members of
Boards deemed
to be public
servants.

40. The Chairman and the other members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code.

Act XLV
of 1860.

*The Bengal [Relief of Indebtedness] Agricultural Debtors
Bill, 1935.*

(Clauses 41—46.)

- Proceedings deemed to be judicial proceedings.** 41. All proceedings under this Act shall be deemed to be judicial proceedings within the meaning of section 228 of the Indian Penal Code.. Act XLV of 1860.
- Indemnity.** 42. No suit, prosecution or legal proceeding whatever shall lie against any Chairman or other member of a Board, Appellate Officer or Certificate-officer in respect of anything in good faith done or intended to be done under this Act. [Cf. Ben. Act XIV of 1935, s. 26.]
- Extension of period of limitation.** 43. Notwithstanding anything contained in any other Act, when the period of limitation is calculated for any application, suit or appeal regarding a debt which has been the subject of any proceedings under this Act, the time during which such proceedings continued and the time during which the person interested in such debt was debarred by any provision of this Act from making or instituting the application, suit or appeal, or executing the decree in question, as the case may be, shall be excluded. [Cf. C. P. Act II of 1933, s. 23.]
- Negotiability of awarded amounts.** 44. The right to receive any amount payable under an award shall be assignable in the prescribed manner [*same way as a decree of a Civil Court.*]
- Penalties.** 45. (1) Whoever—
- (a) intentionally makes any false statement in writing or makes any false statement which has been recorded whether on oath or affirmation or not [*and whether it has been recorded or not,*] before any Board or an Appellate Officer, in any proceeding under this Act ;
 - (b) intentionally produces before a Board any false copy or translation of a document ;
 - (c) falsely personates another and in such assumed character [*presents*] produces any document or makes any admission or statement or does any other act in any proceeding under this Act ; or
 - (d) abets any act punishable under this section ;
- shall on conviction, be liable to imprisonment for a term which may extend to, [*seven*] three years or to fine or to both.
- [(2) *A prosecution for any offence under this section may be commenced by, or with the permission of, the Collector.*]
- [(2) No prosecution for any offence under this section may be commenced except by, or with the permission of, the Collector.]
- Power to make rules.** 46. (1) The Local Government may make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power the Local Government may make rules to provide for all or any of the following matters, namely :—
- (a) the maximum amount of debt which can be dealt with under the provisions of this Act ;
 - (b) the fees to be paid for anything done under this Act and the persons by whom and the manner in which such fees shall be paid ;

*The Bengal [Relief of Indebtedness] Agricultural Debtors
Bill, 1935.*

(Clause 46.)

- (c) the allowances, if any, to be paid to the Appellate Officer, the Chairman and other members of a Board;
- (d) the office establishment of a Board, the pay, allowances and conditions of service of such establishment;
- (e) the procedure of a Board, and the quorum for a meeting of a Board;
- [(ee) the rate of interest referred to in sub-clause (vii) of clause (8) of section 2;
- (f) the withdrawal of an application by an authorised Board and the co-option of members by such Board under sub-section (1) of section 8;]
- (g) the forms of application under section 9, of statements of debt under section 11, of awards, of certificates under section 20, of requisitions under sub-section (1a) of section 21, and of certificates of discharge under sub-section (2) of section 21;
- [(h) the transfer and disposal of applications under sub-section (4) of section 9;]
- (h) the transfer of applications under sub-section (4) of section 9 or sub-section (1) of section 33A and disposal of applications under sub-section (4) of section 9;
- (hh) the manner of signing and verification of applications under section 9;
- (i) the manner of giving notice under sub-section (2) of section 12, sub-section (1) of section 13 and sub-section (2) of section 23;
- (j) the marking of original documents produced under sub-section (2) of section 14;
- (k) the amicable settlement by a Board of debts under section 15;
- (l) the summoning and examination by a Board of parties and their witnesses, and the production of documents, under sub-section (1) of section 16;
- (m) the determination by a Board under sub-section (2) of section 18 of the amount of the principal of a debt and the amount of interest due thereon;
- (n) the settlement of debts by a Board under section 19;
- (o) the grant of a certificate under section 20;
- (p) the declaration by a Board under sub-section (1) of section 21 that a debtor is insolvent, the sale of his property and the reduction of his debts;
- (q) the determination of a portion of the immovable property of a debtor as his dwelling house under sub-section (1) of section 22;
- (r) the movable property of an insolvent debtor which shall be exempt under sub-section (3) of section 22 from sale;
- (s) the period within which an application under sub-section (1) of section 25 shall be made;
- (t) the grant of time under sub-section (2) of section 25 for payment of the amount due;
- (u) the distribution of sale proceeds and the proceedings of a certificate-officer under section 26;
- (v) the authorities whose approval is required under section 27;

*The Bengal [Relief of Indebtedness] Agricultural Debtors
Bill, 1935.*

(Clause 47.)

- (w) the manner of giving notice under section 29 and under section 30 ;
- (ww) the manner of attachment of immovable property under section 32 ;
- (x) the manner of making an appeal under sub-section (1) of section 34 ;
- (y) the judicial experience required in the case of certain Appellate Officer under proviso to sub-section (1) of section 34 ;
- (z) the procedure of an Appellate Officer and the control and inspection of his work under sub-section (2) of section 34 ;
- (z¹) the manner of review under section 36 of [an] a decision or order passed by a Board ;
- (z²) the manner in which and the period within which awards and certificates shall be registered under sub-section (1) of section 38 ; and
- (z³) the publication under section 39 of awards and of certain orders ;
- (z⁴) the manner of assignment of an award under section 44 ;
- (3) The power of making rules conferred by clause (b) of sub-section (2) is subject to the condition that the rules be made after previous publication.

Penalty for
breach of rules.

47. In making any rule under this Act the Local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues.

[C. C. P.
Act II of
1933, s. 26
(3).]

J. W. MCKAY,

Secy. to the Bengal Legislative Council.

GOVERNMENT OF BENGAL.

Legislative Department.

NOTIFICATION.

No. 997L.—15th November, 1935.—His Excellency the Governor having been pleased to order, under rule 18 of the Bengal Legislative Council Rules, 1920, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Calcutta Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information.

THE BENGAL WAKF (AMENDMENT) BILL, 1935.

A
BILL

to amend the Bengal Wakf Act, 1934.

WHEREAS it is expedient to amend the Bengal Wakf Act, 1934, in the manner hereinafter appearing ;

Ben. Act
XIII of
1934.

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act for the passing of this Act ;

5 & 6 Geo.
V. c. 81 ;
6 & 7 Geo.
V. c. 37 ;
9 & 10 Geo.
V. c. 40.

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bengal Wakf (Amendment) Act, 1935.

Insertion of new section 43A in Bengal Act XIII of 1934.

2. After section 43 of the Bengal Wakf Act, 1934 (hereinafter referred to as the said Act) the following section shall be inserted, namely :—

Commissioner to decide if a property is wakf property or wakf is wakf-al-aulad.

“43A. Any question whether a particular property is wakf property or not or whether a wakf is wakf-al-aulad or not shall be decided by the Commissioner whose decision, unless revoked or modified by a competent Court, shall be final.”

Amendment of section 93.

3. In section 93 of the said Act, for the words “ twelve months ” the words “ two years ” shall be substituted.



5

The Calcutta Gazette

Extraordinary

Published by Authority.

FRIDAY, AUGUST 27, 1937.

GOVERNMENT OF BENGAL.

Legislative Department.

NOTIFICATION.

No. 2881L. — 26th August, 1937. — The Governor having been pleased to order, under rule 19 of the Bengal Legislative Assembly Rules, as modified and adapted under section 84(3) of the Government of India Act, 1935, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Calcutta Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information.

X9(U) (2262)
G)

THE BENGAL TENANCY (AMENDMENT) BILL, 1937.

A

BILL

further to amend the Bengal Tenancy Act, 1885.

WHEREAS it is expedient further to amend the Bengal Tenancy Act, 1885, in the manner hereinafter appearing ;

VIII of
1885.

It is hereby enacted as follows :—

Short title
and commence-
ment.

1. (1) This Act may be called the Bengal Tenancy (Amendment) Act, 1937.

(2) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Amendment
of section 3 of
Act VIII of
1885.

2. To clause (5) of section 3 of the Bengal Tenancy Act, 1885 (hereinafter referred to as the said Act), the following shall be added, namely :—

VIII of
1885.

“whether the *raiyat* or under-*raiyat* has held the land before or after the commencement of the Bengal Tenancy (Amendment) Act, 1928.”

Ben.
Act
IV of
1928.

Amendment of
section 26A.

3. In section 26A of the said Act for the figures and letter “26J” the figures and letter “26G” shall be substituted.

Substitution of
new section for
section 26C.

4. For section 26C of the said Act the following section shall be substituted, namely :—

“26C. (1) Every transfer of a holding of an occupancy-*raiyat* or of a portion or share thereof shall be made by ^{Manner} of registered instrument, except in the cases of transfer and of a bequest or a sale in execution of a notice to land-^{lord} decree or of a certificate signed under the Bengal Public Demands Recovery Act, 1913 ; and a registering officer shall not accept for registration any such instrument unless the sale price, or where there is no sale price, the value of the holding or portion or share thereof sold is stated therein, and unless it is accompanied by a notice giving particulars of the transfer in the prescribed form and a landlord's notice fee of one rupee, together with the process fee prescribed for service of such notice on, and the prescribed cost of transmission of such notice fee, to, the landlord or his common agent, if any.

Ben. Act
III of
1913.

(2) In the case of a bequest of such a holding or portion or share thereof, no Court shall grant probate or letters of administration until the applicant files a notice and deposits a notice fee, process fee and transmission cost similar to those referred to in sub-section (1).

(3) Unless the decree-holder, certificate-holder, purchaser or mortgagee, as the case may be, is the sole landlord, a Court or Revenue-officer shall not confirm the sale of such a holding or portion or share thereof put to sale in execution of a decree or a certificate signed under the Bengal Public Demands Recovery Act, 1913, and no Court shall make a decree or order absolute for foreclosure of a mortgage of such a holding or portion or share thereof, until the purchaser or the mortgagee, as the case may be, files a notice and deposits a notice fee, process fee and transmission cost similar to those referred to in sub-section (1).

(4) The Court, Revenue-officer or registering officer, as the case may be, shall serve the said notice on the landlord or his common agent, if any, by registered post.

The Bengal Tenancy (Amendment) Bill, 1937.

(Clauses 5, 6.)

(5) In this section—

- (a) 'decree-holder', 'certificate-holder,' 'purchaser' and 'mortgagee' include their successors in interest, and ..
- (b) 'transfer' does not include partition or a lease."

Repeal of sections 26D, 26E and 26F,

5. Sections 26D, 26E and 26F of the said Act are hereby repealed.

Amendment of section 26G.

6. In section 26G of the said Act—

(1) at the end of sub-section (1) the following shall be inserted, namely:—

"and notwithstanding anything contained in this Act or in any other law or in any contract, no other form of usufructuary mortgage so entered into after the commencement of the Bengal Tenancy (Amendment) Act, 1928, shall have any force or effect."

Ben. Act
IV of 1928.

(2) after sub-section (1) the following sub-section shall be inserted, namely:—

"(1a) Notwithstanding anything contained in this Act or in any other law or in any contract, every usufructuary mortgage subsisting on or after the first day of August 1937, which was so entered into before the commencement of the Bengal Tenancy (Amendment) Act, 1928, shall be deemed to have taken effect as a complete usufructuary mortgage for the period mentioned in the instrument or for fifteen years, whichever is less."

(3) in sub-section (2)—

(a) for the words "such mortgage" the words, figures, letter and brackets "entered into before or after the commencement of the Bengal Tenancy (Amendment) Act, 1928, such a complete usufructuary mortgage or a mortgage referred to in sub-section (1a)", and

(b) for the words "said period" the words, figures, letter and brackets "periods referred to in sub-section (1) or sub-section (1a)"

shall be substituted:

(4) in sub-section (3) for the word "mortgage," the words, figures and brackets "complete usufructuary mortgage entered into after the commencement of the Bengal Tenancy (Amendment) Act, 1928," shall be substituted;

(5) in sub-section (4)—

(a) the words "no other form of usufructuary mortgage entered into by an occupancy-*raiyat* in respect of his holding or portion or share thereof shall have any force or effect, and" shall be omitted; and

(b) the following proviso shall be inserted, namely:—

"Provided that such a document executed before the commencement of the Bengal Tenancy (Amendment) Act, 1928, may be so received in evidence or so acted upon as a complete usufructuary mortgage for the period mentioned therein or for fifteen years, whichever is less"; and

The Bengal Tenancy (Amendment) Bill, 1937.

(Clauses 7—10.)

(6) after sub-section (4) the following sub-sections shall be inserted, namely :—

“(5) Notwithstanding anything contained in this Act or in any other law or in any contract, the consideration (with all interest thereon) for a complete usufructuary mortgage or for another form of usufructuary mortgage deemed under sub-section (1a) to have taken effect as a complete usufructuary mortgage, entered into by an occupancy-*raiyat* in respect of his holding or a portion or share thereof, shall be deemed to have been extinguished on the expiry of the period (a) mentioned in the instrument of the mortgage, or (b) of fifteen years, whichever is less, from the date of the registration of the instrument, or where there is no registered instrument, from the date of the mortgagee's entry into possession, and the mortgagor shall thereupon become entitled to possession of the mortgaged holding, and he may, if he is not forthwith given possession, apply to the Court or to a Revenue-officer to be restored thereto :

Provided that, if in the case of such a mortgage subsisting on or after the first day of August 1937, the said period has, on the date of the commencement of the Bengal Tenancy (Amendment) Act, 1937, already expired, the mortgagor shall, immediately on the commencement of the said Act, become entitled to possession of the mortgaged holding, but he shall not be entitled to, nor shall the mortgagee be liable for, any compensation in respect of the mortgagee's possession from the date of the expiry of the said period to the date of the commencement of the said Act.

(6) An application under sub-section (5) shall be accompanied by a process-fee of the prescribed amount for service of notice on the mortgagee, and the Court or Revenue-officer to whom such an application is made, may, after service of such notice, award to the mortgagor such compensation as appears equitable in respect of the period during which the mortgagee retained possession after the date on which the mortgagor became entitled to be restored to possession.”

Repeal of sections 26H, 26I and 26J.

7. Sections 26H, 26I and 26J of the said Act are hereby repealed.

Insertion of new section 47A.

8. In Chapter VII of the said Act after the heading “Under-*raiyats*” the following section shall be inserted, namely :—

“47A. The provisions of this Chapter shall apply to all under-*raiyats* whether their tenancies were created before or after the commencement of the Bengal Tenancy (Amendment) Act, 1928.”

Ben. Act
IV of 1928.

Amendment of section 48A.

9. In section 48A of the said Act for the words, figures and letters “section 48B or section 48D,” the words, figures and letters “sections 48B or 48D or section 48G, as the case may be” shall be substituted.

Amendment of section 48B.

10. In clause (i) of the proviso to sub-section (1) of section 48B of the said Act for the words “the *raiyat*” the words “his landlord” shall be substituted.

The Bengal Tenancy (Amendment) Bill, 1937.

(Clauses 11—19.)

- Amendment of section 48E. 11. In section 48E of the said Act—
 (1) for the word "*raiyat*" the word "landlord" shall be substituted; and
 (2) after the words "and thereupon," the words "on an application by the under-*raiyat* made within six months of such sub-letting" shall be inserted.
- Amendment of section 48F. 12. In section 48F of the said Act after the word "but" the words, figures, letter and brackets "subject to the provisions of sub-section (2) of section 48G," shall be inserted.
- Amendment of section 48G. 13. In sub-section (2) of section 48G of the said Act—
 (1) in clause (i) for the word, figures and letters "22, 26A to 26J" the word and figures "and 22", and
 (2) in clause (ii) for the figures "86" the figures and letter "85A",
 shall be substituted.
- Repeal of section 48H. 14. Section 48H of the said Act is hereby repealed.
- Amendment of section 49A. 15. In sub-section (2) of section 49A of the said Act after the word "Bhumijes," the word "Dalus" shall be inserted.
- Amendment of section 54. 16. In sub-section (4) of section 54 of the said Act the words, figures and letters "or that he has waived his rights under sections 26D, 26E, 26F or 26J" shall be omitted.
- Amendment of section 67. 17. In section 67 of the said Act for the words "twelve and-a-half" the words "six and a quarter" shall be substituted.
- Insertion of new section 74A. 18. After section 74 of the said Act the following section shall be inserted, namely:—
 "74A. If a landlord or his agent exacts from a tenant any imposition declared under sub-section (1) of section 74 to be illegal, such landlord or agent, as the case may be, shall be liable to the same penalty, to be imposed in the same manner, as in sub-section (3) of section 58, and the provisions of sub-sections (4) to (8) (both inclusive) of the said section relating to inquiry, appeal, fine, compensation and procedure shall, *mutatis mutandis* and so far as may be, apply to proceedings under this section."
- Insertion of new section 75A. ✓ 19. After section 75 of the said Act the following sub-heading and section shall be inserted, namely:—
 "*Suspension of provisions relating to enhancement or reduction of rent.*
 75A. The Provincial Government may, by notification in the *Official Gazette*, suspend with effect from the twenty-seventh day of August 1937, or from such later date whether before or after the commencement of the Bengal Tenancy (Amendment) Act, 1937, in such area and for such period as may be specified in the notification, any or all of the provisions of this Act, except section 52, relating to either the enhancement or reduction of rent or both."

The Bengal Tenancy (Amendment) Bill, 1937.

(Clauses 20—23.)

Insertion of new section 85A.

20. After section 84 of the said Act the following section shall be inserted, namely :—

“ 85A. (1) Notwithstanding anything contained in this Act, a tenant having the right to transfer his tenancy under this Act may apply to his immediate landlord for permission to erect on a specified area of his land a structure to be used solely for religious purposes, provided that, if the immediate landlord be not a proprietor, the tenant shall have given notice to the next superior landlord not less than three months before making such application.

(2) Such permission shall not be unreasonably refused nor objected to, but before the said permission is acted upon, the tenant shall pay to his immediate landlord an amount equal to twenty times the annual rent of the portion of his land in respect of which the said permission is granted.

(3) The rate of rent of the tenancy shall thereafter be reduced by an amount which bears the same proportion to the rate of rent of the whole tenancy as the area in respect of which permission is granted bears to that of the whole tenancy, and provided that the structure for religious purposes is erected without unreasonable delay, the said area shall be held as a separate tenancy which shall be rent-free for so long as it is used solely for the said religious purposes.

(4) If such permission is refused or if the next superior landlord objects after such permission has been granted, the tenant may apply to a Revenue-officer empowered in this behalf by the Provincial Government, and such Revenue-officer shall, after notice to the landlord or landlords and after hearing such of them and such other parties interested in the land as may appear, decide the matter, which decision shall be final, and he shall apportion the costs of the application in such manner as he deems equitable.”

Insertion of new section 85B.

21. In Chapter IX of the said Act after the sub-heading “*Surrender and abandonment*” the following section shall be inserted, namely :—

“ 85B. (1) A tenure-holder may apply to the Court for permission to surrender a tenure.

(2) An application under sub-section (1) shall be in the prescribed form, shall give particulars, *inter alia*, of under-tenure-holders, *raiya*s and under-*raiya*s, if any, holding directly under the tenure sought to be surrendered, and of any incumbrances upon the said tenure, and shall be accompanied by the prescribed fee and the process fee prescribed for service of notices upon the landlord or his common agent, if any, under-tenure-holders, *raiya*s and under-*raiya*s, if any, referred to above and incumbrancers, if any.

(3) If the Court, after hearing the parties, grants permission for the surrender of the tenure, it shall impose such equitable conditions as it may think proper.”

Amendment of section 86.

22. In section 86 of the said Act after the word “*raiya*” in all places in which it occurs, the words “*or under-raiya*” shall be inserted.

Substitution of new section for section 86A.

23. For section 86A of the said Act the following section shall be substituted, namely :—

“ 86A. (1) If the lands of a tenure or holding or a portion of such lands are wholly lost by diluvion, the rate of rent of the tenure or holding shall be abated by an amount which bears the same proportion to the rate of rent of the whole tenancy, as the area lost bears to that of the whole

*The Bengal Tenancy (Amendment) Bill, 1937.**(Clause 24.)*

tenancy, and subject to the provisions of sub-section (2), the tenant shall, unless there is a contract to the contrary made by registered instrument, be deemed to have surrendered his rights in the lands which have been so lost, and his tenancy and rights therein shall be extinguished.

(2) (a) Notwithstanding anything contained in this Act or in any other law, if such lands or a portion thereof reappear within twenty years of the loss by diluvion, the tenant shall have the right to have his tenancy thereof revived and to be restored to possession on payment of the arrears of rent, without interest, in respect of the land which has reappeared for the period during which it was wholly lost or for five years, whichever is less.

(b) The rate of rent of the lands which have reappeared, shall for the purposes of the payment both of the arrears of rent under this sub-section and of the rent due thereafter (until such rate is modified in accordance with the provisions of this Act), be calculated on the rate of rent of the remainder of the tenancy existing when possession of the lost lands is resumed, and shall bear the proportion to that rate of rent which the area of the lands which have reappeared bears to that of the remainder of the tenancy :

Provided that in cases where the entire tenure or holding has been wholly lost by diluvion, the rate of rent of the portion thereof which reappears shall be calculated in like manner on the rate of rent existing when the entire tenancy was wholly lost.

(3) Except as provided in this section, nothing shall prevent the accrual of rights under the operation of any other enactment in any portion of the lands of a tenure or holding which have been lost by diluvion, if such lands thereafter reappear as an accretion thereto."

Substitution of
new section for
section 88.

24. For section 88 of the said Act the following section shall be substituted, namely:—

"88. (1) Save as provided elsewhere in this section, a division of a tenure or holding or a distribution of the rent payable in respect thereof shall not be valid unless such division or distribution has been expressly consented to in writing by both—

- (a) the landlord or the entire body of landlords or their agents duly authorised in that behalf, and
- (b) all the co-sharer tenants :

Provided that, if there is proved to have been made in any landlord's rent-roll any entry showing that any tenure or holding has been divided or that the rent payable in respect thereof has been distributed, such landlord may be presumed to have given his express consent in writing to such division or distribution.

(2) A Revenue-officer empowered in this behalf by the Provincial Government, on application made to him with the prescribed fee by one or more co-sharer tenants for a division of a tenure or holding or for a distribution of the rent payable in respect thereof, or for the annulment or modification of a previous division or distribution other than one made under this sub-section or under an agreement made between all the landlords and co-sharer tenants in conformance with the provisions of sub-section (1), may, by order in writing, direct such division of the tenure or holding or such distribution of rent as he considers fair and equitable, or annul or modify a division or distribution previously made other than one of the nature referred to above if he considers it unfair and inequitable :

The Bengal Tenancy (Amendment) Bill, 1937.

(Clauses 25—28.)

Provided that—

- (a) no such order shall be passed without notice to the landlord or the entire body of landlords or their common agent, if any, and to the remaining co-sharer tenants, the prescribed process-fee for which shall accompany the application ;
- (b) no order for division or distribution shall be made which would result in—
 - (i) the creation of unreasonably small tenures or holdings, or
 - (ii) in bringing the rent for any portion below two rupees in the case of tenures or one rupee and eight annas in the case of holdings ; and
- (c) nothing contained in this sub-section shall be deemed to authorise a Revenue-officer on an application for division or distribution to direct a division or distribution in respect of the share of any tenant other than an applicant under this sub-section or a co-sharer tenant who has been joined as a co-applicant under sub-section (3).

(3) On receipt of notice of an application for division or distribution under sub-section (2) a co-sharer tenant may, on payment of the prescribed fee, apply to be joined as a co-applicant, and upon such application the Revenue-officer shall join the said co-sharer tenant as a co-applicant without further notice to the landlord or landlords and the remaining co-sharer tenants.

(4) Every order of a Revenue-officer under sub-section (2) directing division of a tenure or holding or a distribution of the rent thereof shall also direct payment to the landlord of two rupees as mutation fee by each applicant, including co-applicants, if any, joined under sub-section (3).

(5) An appeal shall lie to the Collector from an order of a Revenue-officer under this section, provided that it is presented within thirty days from the date of such order and is accompanied by the prescribed fee."

Amendment of section 98.

25. In sub-section (7) of section 98 of the said Act the words, figures and letter "or section 158A" shall be omitted.

Amendment of section 99A.

26. In sub-section (1) of section 99A of the said Act—

- (1) in clause (a) for the word, figures and letters "26C, 26F and 48H" the word, figures and letter "and 26C" shall be substituted ;
- (2) in clause (b) for the words "or the landlord's transfer fee payable under those sections, and" the words and figures "payable under sections 12, 13, 15, 17 and 18" shall be substituted ;
- (3) at the end of clause (c) the word "and" shall be inserted, and
- (4) after clause (c) the following clause shall be inserted, namely :—

"(d) the notices referred to in sub-section (2) of section 85B and in sub-section (2) of section 88."

Amendment of section 110.

27. In the proviso to section 110 of the said Act, for the words and figures "sections 191 and 192," the word and figures "section 191" shall be substituted.

Amendment of section 146A.

28. In clause (iii) of sub-section (3) of section 146A of the said Act the words, figures and letter "or section 26E" shall be omitted.

The Bengal Tenancy (Amendment) Bill, 1937.

(Clauses 29, 30.)

Amendment of
section 147.

29. (1) Section 147 of the said Act shall be renumbered as sub-section (1) of section 147, and in the said section so renumbered—

- (a) for the word "three," the word "twelve" shall be substituted; and
- (b) the proviso shall be omitted.

(2) To the said section as renumbered and amended the following sub-sections shall be added, namely:—

"(2) Nothing in sub-section (1) shall be deemed to prevent a landlord instituting a suit for a portion of the arrears of rent in respect of a holding, provided that—

- (a) the claim in such suit shall be for rent of a complete agricultural year or years; and
- (b) the plaint shall contain in addition to the particulars specified in clause (b) of section 148, the total claim which might have been made on the date of the institution of the suit, and the period to which the said total claim relates.

(3) Where a subsequent suit for rent is instituted by a co-sharer landlord and has been consolidated with a previous suit for rent under the provisions of sub-section (4) of section 148A, the date of the institution of the subsequent suit shall, for the purposes of this section, be deemed to be the date of the suit which was first instituted and with which it was consolidated."

Amendment of
section 148.

30. In section 148 of the said Act—

(1) in clause (b) for the words "identification and the plaint," the words "identification. The plaint" shall be substituted; and

(2) in clause (k)—

(a) in sub-clause (i) for the word "may" the word "shall" shall be substituted;

(b) after sub-clause (i) the following sub-clause shall be inserted, namely:—

"(ia) service of the special summons referred to in sub-clause (a) shall ordinarily be effected by forwarding the summons by post in a letter addressed to the defendant and registered under Chapter VI of the Indian Post Office Act, 1898; and when a summons is so forwarded, and it is proved that the letter was duly posted and registered, the Court may presume that the summons has been duly served";

VI of 1908.

(c) in sub-clause (ii) for the words, letter and brackets "has been issued under sub-clause (i)," the words, letter and brackets "referred to in sub-clause (i) has been served" shall be substituted;

(d) at the end of sub-clause (iii) the following shall be inserted, namely:—

"and no action in execution of a decree shall be taken until a period of thirty days has elapsed since the date of the issue of the said postcard."

(e) after sub-clause (iii) as so amended, the following sub-clause shall be inserted, namely—

"(iiia) notwithstanding anything contained in section 34 of the Code of Civil Procedure, 1908, no interest shall be payable from the

Act V of
1908.

The Bengal Tenancy (Amendment) Bill, 1937.

(Clauses 31—36.)

date of the decree on the aggregate sum decreed, if such aggregate sum is paid in full by the judgment-debtor within thirty days from date of posting of the registered postcard under sub-clause (iii)."; and

(f) in sub-clause (iv) the words "upon his depositing one half of the amount recoverable under the decree" shall be omitted from their present context, and the said words shall be inserted after the words, letters and brackets "under sub-clause (ii), he may."

Amendment of section 153.

31. In clause (b) of section 153 of the said Act for the words "Provincial Government," the words "High Court" shall be substituted.

Repeal of Chapter XIII A.

32. The whole of Chapter XIII A of the said Act is hereby repealed.

Amendment of section 178.

33. In section 178 of the said Act—

(1) in clause (g) of sub-section (1) for the figures and letter "26J" the figures and letter "26G" shall be substituted; and

(2) in clause (c) of sub-section (3) after the word "*raiyat*" the words "or under-*raiyat*" shall be inserted.

Amendment of section 180.

34. In sub-section (3) of section 180 of the said Act after the words "the Civil Court," the words "or, after hearing both landlord and tenant, of his own motion" shall be inserted.

Amendment of section 188.

35. In the proviso to sub-section (1) of section 188 of the said Act clause (i) shall be omitted.

Amendment of section 189.

36. In section 189 of the said Act—

(1) in clause (3)—

(a) for the words "transfer fee" the words, figures and letter "notice fee under section 26C" shall be substituted, and

(b) the word "and" shall be omitted:

(2) (a) in clause (4) for the words, figures, letters and brackets "18, clause (a), 26C, 26E and 48H" the word and figures "and 18" shall be substituted, and

(b) at the end of the said clause the word "and" shall be inserted; and

(3) in clause (5)—

(a) in sub-clause (b) the words, figures, letter and brackets "and of the landlord's transfer fee and costs of transmission under sub-section (7) of section 26C" shall be omitted;

(b) for sub-clause (c) the following sub-clause shall be substituted, namely:—

"(c) the amount of fees—

(i) for processes referred to in sub-section (2) of section 12, in sub-sections (1), (2) and (3)

The Bengal Tenancy (Amendment) Bill, 1937.

(Clause 37).

of section 26C, in sub-section (6) of section 26G, in sub-section (2) of section 85B and in sub-section (2) of section 88 ;

(ii) for service of notice referred to in sub-section (1) of section 13 ; and

(iii) referred to in sub-section (2) of section 61, in sub-section (2) of section 85B and in sub-sections (2), (3) and (5) of section 88," and

(c) sub-clause (p) shall be omitted.

Amendment of section 105.

37. For clause (e) of section 195 of the said Act the following clause shall be substituted, namely :—

“(e) any enactment relating to *patni*-tenures in so far as it relates to those tenures, except that—

(i) the provisions of section 67 shall apply to any such enactment, and

(ii) the expression “*khudkasi raiyat* or resident and hereditary cultivator” in sub-section (3) of section 11 of the Bengal *Patni Taluks Regulation, 1819*, shall be deemed to include all *raiya*s having a right of occupancy ; or”

STATEMENT OF OBJECTS AND REASONS.

Some of the existing provisions of the Bengal Tenancy Act have been found to operate rather harshly on the cultivators. The object of this Bill is not to attempt a radical reform of the existing system of land tenure, but to lessen the burden on the cultivator by making the amendments to the law which appear to be most urgently required:

Among the leading provisions of the Bill will be found the following :—

1. Abolition of landlord's transfer fees and the right to pre-emption.
2. Repeal of Chapter XIII A which allows landlords the use on certain conditions of the certificate procedure for realising their rents.
3. Giving under-*raiyats* the right to surrender their holdings.
4. Imposing summary penalty for the exaction of *abwabs*.
5. Empowering Government to suspend any or all of the provisions of the Act relating to the enhancement of rent.
6. Giving powers of surrender to tenure-holders.
7. Allowing landlords to sue for a portion of their arrears of rent instead of for the whole amount.
8. Allowing structures solely for religious purposes to be erected on holdings on certain conditions.
9. Giving increased facilities for the subdivision of tenures and holdings.
10. Providing for the suspension or abatement of rent when a tenure or holding is lost by diluvion.
11. Reducing the rate of interest on arrears of rent from 12 per cent. to 6½ per cent.
12. Giving occupancy under-*raiyats* the same rights of transfer as occupancy-*raiyats*.
13. Giving facilities to occupancy-*raiyats* to regain possession, under certain conditions, of mortgaged holdings.

B. P. SINGH ROY,

Member-in-charge.

CALCUTTA:

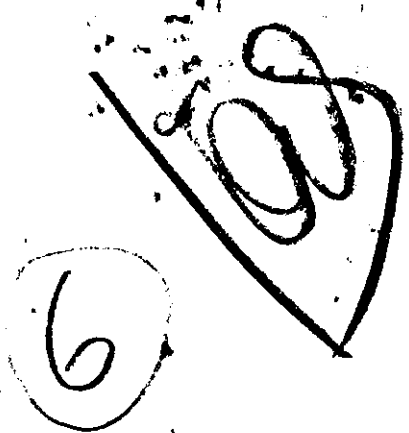
The 25th August, 1937.

By order of the Governor,

H. D. BENJAMIN,

Secy. to the Govt. of Bengal.

Registered No. C207



The Calcutta Gazette

Extraordinary

Published by Authority

MONDAY, JULY 18, 1938.

GOVERNMENT OF BENGAL.

Legislative Department.

NOTIFICATION.

No. 665L.—15th July 1938.—The Governor having been pleased to order, under rule 19 of the Bengal Legislative Assembly Rules, as modified and adapted under section 84(3) of the Government of India Act, 1935, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Calcutta Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information.

THE BENGAL MONEY-LENDERS BILL, 1938.

Preamble.

CHAPTER I.

INTRODUCTORY.

CLAUSE.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

POWERS OF COURTS IN PROCEEDINGS UNDER THIS ACT.

3. Competent Courts under this Act.
4. Procedure in Competent Courts.

CHAPTER III.

REGISTRATION AND LICENSING OF MONEY-LENDERS.

5. Definition.
6. Appointment of Provincial and other Registrars.
7. Register of money-lenders.
8. Money-lending business not to be carried on except under licence.
9. Licences.
10. Application for licences.
11. Entry in register and grant of licences.
12. Stay of suit when money-lender does not hold licence.
13. Refusal to grant licence.
14. Application for cancellation of licence.
15. Court's power to cancel or suspend a licence.
16. No compensation for cancellation or suspension of licence.
17. Disqualification of person whose licence has been suspended or cancelled.
18. Licence duty and penalties recoverable as public demands.
19. Offences in respect of licences.

CHAPTER IV.

REGULATION OF ACCOUNTS OF MONEY-LENDERS.

20. Duty of money-lender to keep accounts.
21. Money-lenders to furnish statements of accounts.
22. Borrower not bound by money-lender's statement of accounts.
23. Procedure in suits relating to loans by money-lenders.
24. This Chapter not to apply to banks, companies, etc.

CHAPTER V.

OTHER PROVISIONS RELATING TO MONEY-LENDERS.

25. Notice and information to be given on assignment of loans by money-lenders.
26. Application of Act as respects assignees.
27. Provisions as to insolvency proceedings for loans by money-lenders.

CHAPTER VI.

INTEREST AND OTHER CHARGES.

28. Limitation as to amount of interest recoverable.
29. Limitations as to rate of interest recoverable.
30. Prohibition of compound interest and provision as to default.
31. Computation of interest on loans in kind.
32. Prohibition of charges for expenses on loans.

CHAPTER VII.

MISCELLANEOUS.

CLAUSE.

33. Power to Court to direct instalments.
34. Reopening of transactions.
35. Inquiry for taking accounts and declaring the amount due.
36. Deposit in Court of money due to lender.
37. Entry of an amount in a bond, etc., different to the amount actually lent to be an offence.
38. Penalty for molestation.
39. General provision regarding penalties.
40. Protection to persons acting under this Act.
41. Power to make rules.
42. Bengal Act VII of 1933 not to apply to loans to which this Act applies.

THE SCHEDULE.

THE BENGAL MONEY-LENDERS BILL, 1938.

A
BILL*further to regulate transactions of money-lending in Bengal.*

WHEREAS it is expedient to make further and better provision for the regulation and control of money-lending ;

It is hereby enacted as follows :—

CHAPTER I.

*Introductory.*Short title,
extent and
commencement.

1. (1) This Act may be called the Bengal Money-lenders Act, 1938.

(2) It extends to the whole of Bengal.

(3) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "bank" means a banking company as defined in section 277F of the Indian Companies Act, 1913, whether incorporated in or outside British India ; VII of 1913.

(2) "Calcutta" includes—

(a) the whole area contained within the boundaries described in Schedule I (as in force at the commencement of this Act) to the Calcutta Municipal Act, 1923 ; Ben. Act III of 1923.

(b) the Dum Dum, Garden Reach, Howrah, South Suburban and Tollygunge Municipalities as they existed at the commencement of this Act :

Provided that this definition may be varied from time to time by the Provincial Government by notification under this Act in the *Official Gazette* ;

(3) "capital" means a sum of money which a money-lender invests in the business of money-lending ;

(4) "company" means a company as defined in the Indian Companies Act, 1913, or formed under the provisions of an Act of Parliament or of the Legislature of a British Dominion or Colony, or by a Royal Charter or Letters Patent ;

(5) "co-operative society" means a society registered under the Co-operative Societies Act, 1912, or any Act of the Provincial Legislature, for the time being in force, relating to such societies ; II of 1912.(6) "insurance company" has the same meaning as in Part III of the Indian Insurance Companies Act, 1928, and "life assurance company" means a company to which the Indian Life Assurance Companies Act, 1912, applies ; XX of 1928.(7) "interest" includes any sum by whatsoever name called, in excess of the principal paid or payable to a lender in consideration of, or otherwise in respect of, a loan, but does not include any sum lawfully charged by a lender in accordance with the provisions of this Act or any other law for the time being in force for or on account of costs, charges or expenses ; VI of 1912.

(8) "lender" means a person who advances a loan and includes a money-lender ;

(9) "licence" means a licence granted under this Act ;

The Bengal Money-lenders Bill, 1938.

(Chapter I.—Introductory.—Clause 2.)

(10) "loan" means an advance, whether of money or in kind, and includes any transaction which is in substance a loan but does not include—

(a) a deposit of money or other property in a Post Office Savings Bank or with any bank, company or co-operative society;

(b) a loan to, or by, or a deposit with, any society or association registered under the Societies Registration Act, 1860, or under any other law relating to public, religious or charitable objects; XXI of 1860.

(c) a loan taken or advanced by any Government in British India or by any local authority in Bengal;

(d) a loan advanced by a bank, co-operative society, insurance company, life assurance company or provident insurance society;

(e) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note; XXVI of 1881.

(f) a loan (other than a loan to be used by the borrower for the purposes of agriculture) advanced to be used by the borrower for the purposes of any business or concern relating to trade, commerce, industry, mining, insurance, banking or entertainment, or to the occupation of wharfinger, warehouseman or contractor or any other venture of a mercantile nature, whether as proprietor or agent or guarantor;

Explanation (1).—A bond bearing interest executed in respect of goods taken on credit for the purpose of sale by the borrower falls within sub-clause (f) and is not a loan.

Explanation (2).—A bond bearing interest executed in respect of goods taken on credit not for the purpose of sale by the borrower is a loan.

Explanation (3).—A supply of goods on credit with no stipulation as to interest or on contract of hire-purchase is not a loan.

(11) "money-lender" means a person who carries on the business of money-lending in Bengal or who has his principal place of such business in Bengal, and includes a pawnee as defined in section 172 of the Indian Contract Act, 1872; LX of 1872.

(12) "money-lending business" and "business of money-lending" mean the business of advancing loans either solely or in conjunction with any other business;

(13) "prescribed" means prescribed by rules made under this Act;

(14) "principal" means in relation to a loan the amount actually advanced to the borrower;

(15) "proceedings under this Act" means proceedings under section 14 or appeals under sub-section (3) of section 13;

(16) "provident insurance society" means a society registered under the Provident Insurance Societies Act, 1912; V of 1912.

(17) "register" means a register of money-lenders maintained under section 7;

(18) "suit" includes an appeal;

(19) "suit to which this Act applies" means any suit or proceeding— [Of. X of 1918, s. 2(3).]

(a) for the recovery of a loan advanced after the commencement of this Act;

The Bengal Money-lenders Bill, 1938.

(Chapter II.—Powers of Courts in Proceedings under this Act.—Chapter III.—Registration and Licensing of Money-lenders.—Clauses 3—5.)

- (b) for the enforcement of any agreement entered into after the commencement of this Act, whether by way of settlement of account or otherwise, or of any security so taken, in respect of any loan advanced whether before or after the commencement of this Act; or
- (c) for the redemption of any security given after the commencement of this Act in respect of any loan advanced whether before or after the commencement of this Act.

CHAPTER II.

Powers of Courts in Proceedings under this Act.

Competent
Courts
under this
Act.

3. Notwithstanding anything contained in any other law, the Courts (hereinafter referred to as Competent Courts) which have jurisdiction to entertain proceedings under this Act and to pass orders therein are—

(a) in Calcutta—

- (i) in such proceedings to which a money-lender who holds a Provincial or first class Calcutta licence is a party, the High Court in its ordinary original jurisdiction;
- (ii) in such proceedings to which a money-lender who holds a second or third class Calcutta licence is a party, the Court of Small Causes of Calcutta;

(b) outside Calcutta—

- (i) in such proceedings to which a money-lender who holds a Provincial mufassil or district licence is a party, the Court of a Subordinate Judge of the district;
- (ii) in such proceedings to which a money-lender who holds a subdivisonal or police-station licence is a party, the Court of a munsif empowered in this behalf by the Provincial Government.

Explanation.—In this section the expression “holds” includes the expressions “held”, “should hold” or “should have held” in relation to the money-lender’s business of money-lending.

Procedure in
Competent
Courts.

4. (1) Subject to the provisions of this Act, a Competent Court shall, in proceedings under this Act, have the same powers and shall follow the same procedure as it has and follows in civil suits.

(2) Every order made by the High Court as a Competent Court under this Act shall be subject to appeal in the same way and be subject to the same provisions as an appeal made by in its ordinary civil jurisdiction, and every order made by any other Competent Court under this Act shall be subject to appeal in accordance with the provisions of the Code of Civil Procedure, 1908, applicable to appeals.

Act V •
1908.

CHAPTER III.

Registration and Licensing of Money-lenders.

Definition.

5. In this chapter the expression “year” means a year beginning on such date as the Provincial Government shall, by notification in the *Official Gazette*, appoint in this behalf.

*The Bengal Money-lenders Bill, 1938.**(Chapter III.—Registration and Licensing of Money-lenders.—Clauses 6—9.)*

Appointment of Provincial and other Registrars.

6. The Provincial Government may appoint a Provincial Registrar and Registrars of Money-lenders (hereinafter referred to as Registrars) for the purposes of this Act, and may define, by notification, the area within which each shall exercise his powers and perform his duties, and may prescribe the control, if any, which a Registrar of a particular area shall exercise over the Registrar of another area.

Register of money-lenders.

7. Each Registrar shall maintain in the prescribed form a register of money-lenders holding licences issued by him for his area.

Money-lending business not to be carried on except under licence.

8. After such date not less than six months after the commencement of this Act as the Provincial Government shall, by notification in the *Official Gazette*, appoint in this behalf, no money-lender shall carry on the business of money-lending except—

- (a) in the area for which he has been granted a licence, and
- (b) in accordance with the terms and conditions of such licence.

Licences.

9. (1) Licences may be granted for the whole of Bengal (to be called a Provincial licence), for the whole of Bengal excluding Calcutta (to be called a mufassil licence), for Calcutta (to be called a Calcutta licence) or for any specified district, subdivision or police-station (to be called a district, subdivisional or police-station licence, respectively).

(2) There shall be three classes of Calcutta licence, and a first class Calcutta licence shall be granted unless the applicant proves to the satisfaction of the Registrar that the maximum amount of capital invested or intended to be invested in the business of money-lending during the year to which the licence relates is less than ten thousand rupees or five thousand rupees when a second or third class Calcutta licence, respectively, may be granted.

(3) A money-lender may apply—

- (a) for the grant of licences for more than one area, or
- (b) while holding a licence for a particular area, for the conversion of such licence into a licence for a larger area containing the area for which he holds a licence, or
- (c) while holding a Calcutta licence of one class, for the conversion of such licence into a Calcutta licence of higher class.

(4) All licences shall be issued annually and a licence shall be valid only for the year or portion thereof in respect of which it has been issued.

(5) For the purposes of this Act, subject to the provisions of clause (2) of section 2,—

- (a) "district" means the local area under the jurisdiction of a District Magistrate, and
- (b) "subdivision" and "police-station" shall have the meanings assigned to them in the Code of Criminal Procedure, 1898,

Act V of 1898.

and, until varied by the Provincial Government by notification under this Act, the limits of all districts, subdivisions and police-stations shall, subject as aforesaid, be such as existed at the commencement of this Act.

*The Bengal Money-lenders Bill, 1938.**(Chapter III.—Registration and Licensing of Money-lenders.—
Clauses 10, 11.)*

Application
for licences.

10. An application for the grant or conversion of a licence shall be made in the prescribed form and manner to the Registrar of the area within the limits of which the business of money-lending is intended to be carried on, and shall contain such particulars as may be prescribed :

Provided that in the case of an application for a first grant of a licence, a date before which such application shall be made may be prescribed.

Entry in
register and
grant of
licences.

11. (1) On the receipt of an application under section 10 and on payment in the prescribed manner of the licence duty specified in the schedule, the Registrar may, subject to the provisions of section 13 and after making such summary inquiry as he deems necessary, enter the name of the applicant in the register for the year and grant the applicant a licence in such form and subject to such conditions as may be prescribed.

(2) The provisions of sub-section (1) shall apply to the case of a money-lender required under sub-section (2) of section 12 to produce a licence :

Provided that—

(a) the money-lender shall also pay all arrears of licence duty and penalty, if any, directed by the Court to be paid, and

(b) the Registrar may enter the name of the applicant in the register, and grant him a licence for the year or years in respect of which he has been required to produce a licence.

(3) (i) If at any time during a year for which a licence has been granted, a Registrar has reason to believe—

(a) that a money-lender has engaged in the business of money-lending in any area for which he has not been granted a licence, or

(b) in respect of a money-lender to whom a second or third class Calcutta licence has been granted, that such money-lender has invested more than ten thousand rupees or five thousand rupees respectively during the year,

he may, after summary inquiry, determine the amount or additional amount, if any, of licence duty which the money-lender is liable, in accordance with the rates specified in the schedule, to pay and may recover the same from the money-lender together with such penalty as he thinks fit, not exceeding three times the amount of licence duty found to be payable :

Provided that if the Registrar has reason to believe that the money-lender has been engaged in the business of money-lending in an area for which he is not competent to grant a licence, he shall forward the case to the prescribed Registrar who shall deal with the case in the manner provided in this sub-section.

(ii) When the sums payable under clause (i) have been paid, the Registrar may, unless he has reasons for passing an order under section 13, enter the name of the money-lender in the appropriate register and grant the money-lender a licence, or in cases referred to in sub-clause (b) of clause (i), correct the register and convert the licence.

(4) For the purpose of inquiries under this section and under sub-section (2) of section 9, a Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of—

(a) enforcing the attendance of any person and examining him on oath ;

*The Bengal Money-lenders Bill, 1938.**(Chapter III.—Registration and Licensing of Money-lenders.—
Clauses 12, 13.)*

- (b) compelling the production of documents, including books of account ;
- (c) issuing commissions for the examination of witnesses ; and
- (d) proof of facts by affidavits.

Stay of suit when money-lender does not hold licence.

12. (1) No Court shall pass a decree or order in favour of a money-lender in any suit to which this Act applies and which has been instituted by a money-lender, unless the Court is satisfied that at the time or times when the loan or any part thereof to which the suit relates was advanced, the money-lender held, if so required by this Act, a licence for the appropriate area which was not suspended or cancelled or which had not expired.

(2) If during the trial of a suit to which this Act applies, the Court finds that the money-lender had not held such licence, the Court may, on the application of the money-lender, stay the hearing of the suit and require the money-lender within three months or within such further period as the Court may from time to time see fit to grant, to produce a licence on payment to the Registrar of all arrears of licence duty payable by him in accordance with the rates specified in the schedule for the years commencing with the year during which he began his money-lending business or with the date notified under section 8, whichever is later, during which he has continued money-lending business, together with such penalty as the Court thinks fit, not exceeding three times the amount of the said arrears of licence duty.

(3) If the money-lender fails to produce the licence within the period allowed under sub-section (2), the Court shall dismiss the suit and inform in the prescribed manner the Registrar of the appropriate area: If the money-lender produces the licence within such period, the Court shall proceed to hear the suit.

(4) The provisions of this section shall apply to a claim for a set off by or on behalf of a money-lender.

(5) In this section and in sub-section (2) of section 11, the expression " money-lender " includes an assignee of a money-lender, if the Court is satisfied that the assignment was made for the purposes of avoiding the payment of licence duty and penalty which may be ordered to be paid under this section, provided that in lieu of a licence such assignee shall be required to produce a receipt of payment issued by the Registrar of all arrears of licence duty and penalty, if any, ordered to be paid under this section, and the Registrar shall, under sub-section (2) of section 11, grant to such assignee a receipt of payment in lieu of the licence referred to therein.

Refusal to grant licence.

13. (1) The grant or conversion of a licence shall not be refused except on one or more of the following grounds, namely :—

- (a) that the applicant or any person responsible or proposed to be responsible for the management of the applicant's money-lending business is by order of a Court under this Act disqualified for holding a licence ;
- (b) that the applicant has not complied with the provisions of this Act or of the rules made thereunder in respect of an application for the grant of a licence ;
- (c) that the applicant has made wilful default in complying with, or knowingly acted in contravention of any requirement of this Act or of the rules made thereunder or of the conditions of a previous licence ;

The Bengal Money-lenders Bill, 1938,

(Chapter III.—Registration and Licensing of Money-lenders.—
Clauses 14, 15.)

(d) that the applicant or any person responsible or proposed to be responsible for the management of the applicant's money-lending business has been convicted of an offence under Chapter XVII or sections 465, 477 or 477A of the Indian Penal Code, provided that, having regard to the time which has elapsed since the conviction and the nature of the offence, the Provincial Government may, on application in the prescribed form accompanied by the prescribed fee, exempt any person from the operation of this ground, and on such exemption being granted in respect of any conviction, such conviction shall not be a ground under this section in any future application for the grant of a licence. Act XLV
of 1860.

(2) The Registrar refusing a licence under sub-section (1) shall record or cause to be recorded at his dictation a summary of the evidence adduced before him and his reasons for such refusal.

(3) An appeal shall lie from the order of the Registrar refusing a licence to the Competent Court.

Application for
cancellation of
licence.

14. (1) Any person may, on depositing by way of security for such compensation as may be payable under sub-section (2), the sum of fifty rupees, or if such person be a borrower from the money-lender, such sum or two-and-a-half per centum of the principal of his loan, whichever is less, make an application to the Competent Court for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act, conduct or omission for which the Registrar may under section 13 refuse the grant of a licence, and on the receipt of such application, the said Court shall hold such inquiry as it deems necessary.

(2) Such Court may direct that any person making an application under this section which is frivolous or vexatious shall pay to the money-lender against whom such application has been made compensation of such amount as the Court considers equitable.

Court's power
to cancel or
suspend a
licence.

15. (1) A Competent Court in a proceeding under this Act or a Court trying a suit to which this Act applies or a Court passing an order of conviction upon a money-lender for an offence under this Act, if satisfied that the money-lender has committed such contravention of the provisions of this Act or of the rules made thereunder as, in its opinion, makes him unfit to carry on the business of money-lending—

- (a) may order all licences held by such money-lender to be suspended for such period as the Court may think fit, or to be cancelled,
- (b) may also declare such money-lender or any person responsible for the management of his money-lending business or both disqualified from holding a licence of any description for such period as the Court may think fit, and
- (c) shall cause the particulars of the conviction, if any, and of any order passed by the Court under this sub-section to be endorsed on the licence or licences held by the money-lender or by any other person affected by such order :

Provided that where the licences held by a money-lender are suspended or cancelled or a money-lender is disqualified from holding a licence under this sub-section, he may appeal against such order to the Court to which an appeal ordinarily lies from the decision of the Court passing the order ; and

*The Bengal Money-lenders Bill, 1938.**(Chapter III.—Registration and Licensing of Money-lenders.**—Chapter IV.—Regulation of Accounts of Money-lenders.**—Clauses 16—20.)*

the Court which passed the order or the Court of appeal may, if it thinks fit, stay the operation of the order under this sub-section pending the disposal of the appeal :

Provided further that where the Court of appeal sets aside or varies an order passed under this sub-section, it shall order that any endorsements made in pursuance thereof upon a licence held by a money-lender shall be erased or modified.

(2) The substance of any order passed under sub-section (1) or the provisos thereto shall be sent forthwith in the prescribed form by the Court passing the order to the Provincial Registrar and to the Registrar by whom the licence affected was granted for entry in the register and for such circulation to other Registrars as may be prescribed.

(3) Any licence required by a Court for endorsement under sub-section (1) shall be produced in such manner and at such time as the Court may direct by the person by whom it is held, and any person who without reasonable cause makes default herein shall be liable on conviction to a fine not exceeding fifty rupees for each day of the period during which the default continues.

(4) Powers conferred on a Court under sub-section (1) may be exercised by a Court in appeal or in revision.

(5) The Provincial Government may at any time, on application in the prescribed form accompanied by the prescribed fee, remove a disqualification declared under this section or otherwise modify such declaration, having regard to the time which has elapsed since the declaration and the circumstances under which it was made.

No compensation for cancellation or suspension of licence.

16. A person whose licence has been cancelled or suspended shall not be entitled to any compensation on such account nor to the refund of any licence duty paid in respect of such licence.

Disqualification of person whose licence has been suspended or cancelled.

17. A person shall be disqualified for holding a licence of any description—

(a) if his licence has been cancelled, for the remainder of the year to which the cancelled licence relates, or

(b) if his licence has been suspended, during the period of such suspension.

Licence duty and penalties recoverable as public demands.

18. All licence duty including all arrears of such duty and all penalties imposed under this Act shall be recoverable as public demands.

Offences in respect of licences.

19. (1) Whoever being disqualified for holding a licence, applies for or obtains a licence during the pendency of such disqualification, without disclosing the fact thereof, shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both, and any licence so obtained shall be of no effect.

(2) Whoever obliterates or causes to be obliterated or attempts to obliterate an endorsement entered on a licence under this Act shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

CHAPTER IV.

Regulation of Accounts of Money-lenders.

Duty of money-lender to keep accounts.

20. (1) Every money-lender shall keep and maintain at least a cash book and a ledger in such form as may be prescribed and shall write the same in the regular course of business.

*The Bengal Money-lenders Bill, 1938.**(Chapter IV.—Regulation of Accounts of Money-lenders.—
Clause 21.)*

(2) Every money-lender shall—

- (a) deliver to the borrower within a reasonable time after a loan is advanced a statement in such form as may be prescribed and in the language in which he keeps his accounts showing clearly and distinctly such details of the conditions of the loan and such other information connected therewith as may be prescribed ;
- (b) give to the borrower a plain and complete receipt for every payment made on account of any loan within seven days of the date of such payment ;
- (c) upon repayment in full of a loan, mark indelibly with words indicating full payment or cancellation every paper signed by the borrower, and discharge any mortgage, restore any pledge, return any note and cancel any assignment given by the borrower as security.

Money-lenders
to furnish
statements
of account

21. (1) Every money-lender shall, within two months of the commencement of each year, furnish each of his borrowers with a legible statement of accounts signed by him or his agent of the amount outstanding against the borrower: such statement shall be made out in the prescribed form and in the language in which the accounts of the money-lender are ordinarily kept and shall show—

- (a) the amounts of principal and interest due to the money-lender at the commencement of the year ;
- (b) the amounts of any payments received from the borrower since the commencement of the year in respect of loans outstanding and the dates on which they were made ;
- (c) the amount of every sum due from the borrower remaining unpaid and the date on which each such sum became due and the amount of interest accrued due and unpaid in respect of every such sum ; and
- (d) the amount of every sum not yet due which remains outstanding and the date upon which each such sum will become due.

(2) In respect of any particular loan, whether advanced before or after the commencement of this Act, a money-lender shall, on any reasonable demand being made in writing by the borrower at any time while the loan or any portion thereof remains outstanding and on payment of the prescribed fee, supply to the borrower or to any person specified in that behalf in the demand, a statement signed by the money-lender or his agent and showing in the prescribed form any or all of the particulars specified in sub-section (1) : such statement shall be supplied in the language in which the accounts of the money-lender are ordinarily kept, and on payment by the borrower of the additional fee prescribed, shall be accompanied by a translation of such statement in English or in such vernacular language as the borrower ordinarily uses.

(3) A money-lender shall, on a demand in writing by the borrower and on payment of the prescribed fee, supply to the borrower or to any person specified in that behalf in the demand a copy of any document relating to a loan advanced to the borrower or to any security therefor.

(4) In this section the expression "year" means the year for which the accounts of the money-lender are ordinarily maintained in his own books.

The Bengal Money-lenders Bill, 1938.

(Chapter IV.—Regulation of Accounts of Money-lenders.—
Chapter V.—Other Provisions relating to Money-lenders.—Clauses 22—25.)

Borrower not bound by money-lender's statement of accounts.

22. A borrower to whom a statement of accounts has been furnished under section 21 shall not be bound to acknowledge or deny its correctness, and his failure to do so shall not, by itself, be deemed to be an admission of the correctness of the account.

Procedure in suits relating to loans by money-lenders.

23. Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies—

(a) a Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of sections 20 and 21; and

(b) if the Court finds that the provisions of either of the said sections have not been so complied with, it may, if the plaintiff's claim is established either wholly or in part, disallow the whole or any portion of the interest found due as may, in the circumstances of the case, appear reasonable to the Court, and may also disallow costs, or in computing the amount of interest due upon the loan, the Court may exclude any period for which the money-lender omitted to comply with the provisions of either of the said sections:

Provided that if the money-lender has, after the time specified in the said sections, given the receipt or furnished the statement, as the case may be, and if he satisfies the Court that he had sufficient cause for not doing so earlier, the Court may include any such period in computing the interest.

Explanation.—A money-lender who has given a receipt or furnished a statement in the prescribed form and manner shall be held to have complied with the provisions of section 20 or section 21, as the case may be, in spite of any errors and omissions in such receipt or statement if the Court finds that such errors and omissions are neither material nor made fraudulently.

This Chapter not to apply to banks, companies, etc.

24. Nothing in this Chapter shall apply to a company, and the Provincial Government may, by notification in the *Official Gazette*, exempt from the operation of this Chapter any other body, corporate or incorporate.

CHAPTER V.

Other Provisions relating to Money-lenders.

Notice and information to be given on assignment of loans by money-lenders.

25. (1) Where any debt in respect of—

(i) money advanced by a money-lender, whether before or after the commencement of this Act, or

(ii) interest on any such debt, or

(iii) the benefit of any agreement made, or security taken, in respect of any such debt or interest—

is assigned to any assignee, the assignor (whether he is the money-lender by whom the money was advanced or any person to whom the debt has been previously assigned) shall, before the assignment is made,—

(a) give to the assignee notice in writing that the debt, interest thereon, agreement or security is affected by the operation of this Act, and

(b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act relating to the obligation to supply information as to the state of loans and copies of documents relating thereto.

(Cf. 17 and 18 Geo. V, c. 21, s. 18.)

The Bengal Money-lenders Bill, 1938.

(Chapter V.—Other Provisions relating to Money-lenders.—
Clauses 26, 27.)

(2) Any person who acts in contravention of any of the provisions of this section shall be liable to indemnify any other person who is prejudiced by the contravention.

Application of
Act as respects
assignees.

26. (1) Subject as hereinafter provided, the provisions of this Act shall continue to apply as respects any debt to a money-lender in respect of loans advanced by him after the commencement of this Act or in respect of interest on such loans or of the benefit of any agreement made or security taken in respect of any such debt or interest, notwithstanding that the debt or the benefit of the agreement or security may have been assigned to any assignee, and except where the context otherwise requires, references in this Act to a money-lender shall accordingly be construed as including any such assignee as aforesaid: (Cf. 17 and 18 Geo. V, c. 21, s. 17.)

Provided that, notwithstanding anything contained in this Act except section 12—

(a) any agreement with, or security taken by, a money-lender in respect of a loan advanced by him after the commencement of this Act shall be valid in favour of any *bona fide* assignee or holder for value without notice of any defect due to the operation of this Act and of any person deriving title under him; and

(b) any payment or transfer of money or property made *bona fide* by any person, whether acting in a fiduciary capacity or otherwise, on the faith of the validity of any such agreement or security, without notice of any such defect shall, in favour of that person, be as valid as it would have been if the agreement or security had been valid;

but in every such case the money-lender shall be liable to indemnify the borrower or any other person who is prejudiced by virtue of this section, and nothing in this proviso shall render valid an agreement or security in favour of, or apply to proceedings instituted by, an assignee or holder for value who is himself a money-lender.

(2) Nothing in this section shall render valid for any purpose any agreement, security or other transaction which would, apart from the provisions of this Act, have been void or unenforceable.

Provisions as
to insolvency
proceedings for
loans by
money-lenders.

27. (1) Where a debt due to a money-lender in respect of a loan advanced by him after the commencement of this Act includes interest, that interest shall, for the purposes of the provisions of the Presidency-towns Insolvency Act, 1909, the Provincial Insolvency Act, 1920 and the Bengal Agricultural Debtors Act, 1935, relating to the presentation of an insolvency petition or application for settlement of debts, to voting at meetings, compositions and schemes of arrangement and dividend and notwithstanding anything to the contrary contained in the said Acts, be calculated at a rate not exceeding five *per centum per annum*, but nothing in the foregoing provision shall prejudice the right of the money-lender to receive out of the estate, after all the debts proved in the estate have been paid in full, any higher rate of interest to which he may, subject to the principles contained in Chapter VI, be entitled. (Cf. 17 and 18 Geo. V, c. 21, s. 9.) III of 1909. V of 1920. Ben. Act VII of 1936.

(2) Notwithstanding anything contained in the above-mentioned Acts, no proof of a debt due to a money-lender shall be admitted for any of the purposes of the said Acts, unless the affidavit verifying the debt is accompanied by a statement showing in detail, in addition to such particulars as the said Acts may require,—

(a) the amount of the sums actually lent to the debtor and the dates on which they were lent; and the

*The Bengal Money-lenders Bill, 1938.**(Chapter VI.—Interest and other charges.—Clauses 28—31.)*

amount of every payment already received by the money-lender in respect of the loan and the date on which each such payment was made; and

(b) the amount of the balance which remains unpaid, distinguishing the amount of the principal from the amount of interest; and

(c) where the amount of interest included in the unpaid balance has been calculated at a rate exceeding five *per centum per annum*, the amount of interest which would be so included if it were calculated at the rate of five *per centum per annum*.

(3) Rules for the purpose of carrying into effect the objects of this section may be made under section 112 of the Presidency-towns Insolvency Act, 1909, section 79 of the Provincial Insolvency Act, 1920, and section 55 of the Bengal Agricultural Debtors Act, 1935, by the authorities respectively specified in those sections.

III of 1909.
V of 1920.
Ben. Act
VII of
1936.

CHAPTER VI.

Interest and other charges.

Limitation as to amount of interest recoverable

28. Notwithstanding anything contained in any law for the time being in force or in any agreement, no Court shall, in any suit in respect of a loan whether such suit was instituted before or after the commencement of this Act, decree on account of arrears of interest a sum greater than the principal of the original loan.

Limitations as to rate of interest recoverable.

29. Notwithstanding the provisions contained in the proviso to section 30 or in any other law for the time being in force or in any agreement, no Court shall, in any suit to which this Act applies, decree interest at rates *per annum* exceeding in the case of—

- (i) unsecured loans in kind, twenty-five *per centum*,
- (ii) secured loans in kind, fifteen *per centum*,
- (iii) other unsecured loans, twelve *per centum*, and
- (iv) other secured loans, nine *per centum*.

Prohibition of compound interest and provision as to default.

30. Any agreement made after the commencement of this Act for a loan shall be illegal in so far as it provides directly or indirectly for the payment of compound interest:

Provided that provision may be made in any such agreement that if default is made in the payment upon the due date of any sum payable to the lender under the agreement, whether in respect of principal or interest or both, the lender shall be entitled to charge simple interest on that sum from the date of default until the sum is paid at a rate not exceeding the rate recoverable in respect of interest on the principal, and any interest so charged shall not be reckoned for the purposes of this Act, save those of section 28, as part of the interest charged in respect of the loan.

Computation of interest on loans in kind.

31. In the case of loans in kind, the money value of the commodity at the time when, and in the locality where, the loan was advanced shall, for the purposes of this Act, be deemed to be the principal of the loan, and in determining the amount of interest which may, subject to the provisions of this chapter, be decreed in respect of such a loan, the Court shall take into consideration the market value of the commodity in the said locality at the due date of repayment.

The Bengal Money-lenders Bill, 1938.

(Chapter VI.—Interest and other charges.—Chapter VII.—
Miscellaneous—Clauses 32—34.)

Prohibition
of charges
for expenses
on loans.

32. Any agreement between a lender and a borrower or intending borrower for the payment to the lender of any sum on account of costs, charges or expenses incidental or relating to the negotiations for, or the granting of, the loan or proposed loan, shall be illegal, and if any sum is paid to a lender by the borrower or intending borrower as, for or on account of any such costs, charges or expenses, that sum shall be recoverable as a debt due to the borrower or intending borrower, or in the event of the loan being completed, shall, if not so recovered, be set off against the amount actually lent and that amount shall be deemed to be reduced accordingly : [Cf. 17 and 18 Geo. V, s. 21, s. 12.]

Provided that nothing in this section shall debar a lender from recovering the costs of investigating title, of stamp duty and registration of documents and other usual out-of-pocket expenses in cases where the agreement includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed to such expenditure and the reimbursement thereof, nor from recovering such costs, charges or expenses as are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force. IV of 1882.

CHAPTER VII.

Miscellaneous.

Power to
Court to direct
instalments.

33. (1) Notwithstanding anything contained in any law for the time being in force, the Court may—

(a) at any time, on the application of a judgment-debtor and after notice to the decree-holder, order that the amount of any decree passed against the judgment-debtor, whether before or after the commencement of this Act, in respect of a loan, shall, subject to such conditions as the Court may impose, be payable in such number of instalments and on such dates as the Court thinks fit, having regard to the circumstances of the judgment-debtor and the amount of the decree, and

(b) during the pendency of any inquiry under clause (a), order, subject to such conditions as the Court may impose, the stay of execution of the decree. [Cf. C. P. Act XIII of 1934, s. 11.]

(2) Any order under this section shall be deemed to have been passed under section 47 of the Code of Civil Procedure, 1908. Act V of 1908.

Reopening of
transactions.

34. (1) Notwithstanding anything contained in any law for the time being in force, the Court may, in any suit to which this Act applies, whether heard *ex parte* or otherwise, exercise any or all of the following powers, namely, may—

(a) reopen any transaction or any account already taken between the parties;

(b) take an account between the parties;

(c) release the debtor of all liability in respect of any interest in excess of any of the limits specified in Chapter VI;

(d) if anything has been paid or allowed in account in respect of such liability, order the lender to repay any sum which the Court considers to be repayable in respect thereof :

Provided that in the exercise of these powers, the Court shall not do anything which affects any decree of a Court nor reopen any adjustment or agreement purporting to close previous dealings and to create new obligations which have

*The Bengal Money-lenders Bill, 1938.**(Chapter VII.—Miscellaneous.—Clauses 35, 36.)*

been entered into by the parties or any person through whom they claim, at a date more than three years from the institution of the said suit.

(2) In this section the expression "suit to which this Act applies" includes a proceeding in respect of any application relating to the admission or amount of a proof of a loan advanced after the commencement of this Act in any insolvency proceedings.

Inquiry for taking accounts and declaring the amount due.

35. (1) Any borrower may make an application at any time to a Court which would have jurisdiction to entertain a suit by the lender for the recovery of the principal and interest of the loan, for taking accounts and for declaring the amount due to the lender. Such application shall be in the prescribed form and shall be accompanied by the prescribed fee, and on receipt of such application, the Court shall cause a notice thereof to be served on the lender.

(2) The Court shall thereafter take an account of the transactions between the parties and shall declare the amounts, if any,—

(a) payable and already due,

(b) payable but not yet due

by the borrower to the lender, whether as principal or interest or both. In taking accounts under this section the Court shall follow the same procedure as it does in regard to civil suits and, so far as may be, the provisions of Chapters IV, VI and VII.

(3) Where any of the principal or interest or both of a loan has been declared under this section to be payable and already due, and the lender not later than one month after the date of the declaration pays the court-fee payable on a plaint in a suit for the recovery of the amount declared due, the Court shall endorse the order of declaration with the statement that such court-fee has been paid, and the order of declaration shall thereupon become executable as a decree of the Court.

(4) A proceeding under this section shall be deemed to be a suit for the purposes of section 11 of the Code of Civil Procedure, 1908, and a declaration under this section shall be subject to appeal, if any, as if it were a decree of the Court, and every decision in appeal shall be subject to appeal to the High Court in the same manner as a decree passed in appeal.

Act V of 1908.

Deposit in Court of money due to lender.

36. (1) Where a borrower has sent to a lender by postal money-order any sum of money due from him to the lender in respect of a loan and the lender has refused to accept the same, the borrower may apply in the prescribed manner to the Civil Court of the lowest grade having jurisdiction over the place where he resides for permission to deposit the said sum in Court to the account of the lender, and the Court on receiving the prescribed fee from the borrower shall keep the said sum in deposit.

(2) The Court shall thereupon cause notice of the deposit to be served on the lender, and the lender may, on presenting a petition, verified as for a plaint and accompanied by the prescribed fee, stating the sum then due in respect of the loan and his willingness to accept the money so deposited, receive the sum :

Provided that in accepting any sum deposited under this section, a lender shall not be bound by any statement made by the borrower in depositing the same.

(3) When the borrower has deposited in Court under this section any sum due in respect of the loan, if such sum is in payment of the principal or any part thereof, the interest on such principal or part shall, notwithstanding any agreement between the parties, cease from the date of the service of notice on the lender under sub-section (2).

*The Bengal Money-lenders Bill, 1938.**(Chapter VII.—Miscellaneous.—Clauses 37—39.)*

(4) Nothing in this section shall affect the operation of sections 83 and 84 of the Transfer of Property Act, 1882, in regard to loans to which those sections apply. IV of 1882.

Entry of an amount in a bond, etc., different to the amount actually lent to be an offence.

37. (1) No lender shall take from a borrower or intending borrower any note, promise to pay, power of attorney or security which does not state the actual amount of the loan, the rate of interest charged and the time, if any, within which the principal is stipulated to be repaid in full, or which states any of such particulars incorrectly, nor shall he take from any borrower or intending borrower any instrument in which blanks are left to be filled in at a later date.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to one thousand rupees.

(3) Notwithstanding anything contained in any law for the time being in force, any such note, promise, power of attorney, security or document shall be void and unenforceable.

Penalty for molestation.

38. (1) Whoever molests, or abets the molestation of, a debtor for the purpose of recovering or attempting to recover, a debt shall be punishable, on conviction, with imprisonment of either description which may extend to three months or with fine which may extend to five hundred rupees or with both.

Explanation.—For the purposes of this section, a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing, —

(a) obstructs or uses violence to or intimidates such other person, or

(b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(c) loiters or does any similar act at or near a house, building or place where such other person resides or works or receives his pay or wages or carries on business or happens to be—

shall be deemed to molest such other person :

Provided that a person who attends at or near such house, building or place for the purpose only of making a formal demand for repayment of a loan due or of obtaining or communicating information shall not be deemed to molest.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this section shall be cognisable and bailable. Act V of 1898.

(3) Nothing in this section shall be deemed to restrict the provisions of the Bengal Workmen's Protection Act, 1934. Ben. Act IV of 1935.

General provision regarding penalties.

39. Whoever makes default in complying with, or acts in contravention of, any provision of this Act, and if the money-lender is—

(a) an individual, such individual, or

(b) an undivided Hindu family, the manager and all adult coparceners of such family, or

(c) a body corporate, the directors, the manager and all other officers of such body, or

(d) an unincorporated body, all members of such body,

who is or are a party to such default or contravention, shall, if no specific penalty has been provided in this Act, be punishable—

(i) for the first offence, with fine which may extend to two hundred rupees,

*The Bengal Money-lenders Bill, 1938.**(Chapter VII.—Miscellaneous.—Clauses 40—42.)*

- (ii) for the second offence, with fine which may extend to five hundred rupees, and
- (iii) for any subsequent offence, with rigorous imprisonment which may extend to three months and shall also be liable to fine.

Protection to persons acting under this Act.

40. No suit, prosecution or proceeding shall lie against any servant of the Crown for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

41. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for the following matters, namely :—

- (a) the control to be exercised by the Provincial Registrar over other Registrars and by Registrars of particular areas over Registrars of other areas ;
- (b) the form in which registers under section 6 shall be maintained ;
- (c) the form and manner in which an application for the grant or conversion of a licence shall be made, and the particulars to be therein contained ;
- (d) the date before which an application for a first grant of licence shall be made ;
- (e) the manner in which licence duty and penalties shall be paid ;
- (f) the form and conditions of licences ;
- (g) the Registrar to whom cases shall be forwarded under the proviso to clause (i) of sub-section (3) of section 11 ;
- (h) the form of, and the fee payable on, an application under the proviso to clause (d) of sub-section (1) of section 13 or under sub-section (5) of section 15 ;
- (i) the form and manner in which a Court shall communicate information under sub-section (3) of section 12 or sub-section (2) of section 15 ;
- (j) the form in which a money-lender shall maintain his cash book and ledger ;
- (k) the form of, and the particulars to be contained in, the statement to be delivered under sub-section (2) of section 20 ;
- (l) the form of the statements to be furnished under section 21 and the fees to be paid under sub-sections (2) and (3) of that section ;
- (m) the form of, and the fee payable on, an application under section 35 ; and
- (n) the manner in which an application under section 36 shall be made, and the fees payable under sub-sections (1) and (2) of that section.

(3) Rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

Bengal Act VII of 1933 not to apply to loans to which this Act applies.

42. The Bengal Money-lenders Act, 1933, shall not apply to any loan to which this Act applies nor to any transaction connected with such loan.

*The Bengal Money-lenders Bill, 1938.**(Chapter VII.—Miscellaneous.—The Schedule.)*

THE SCHEDULE.

(See sections 9, 11 and 12.)

Designation of licence.	Amount of licence duty payable.
Police-station	.. Two rupees.
Subdivisional	.. One rupee and eight annas multiplied by the number of police-stations in the subdivision.
District	.. One rupee multiplied by the number of police-stations in the district.
Mufassil	.. One hundred rupees.
Calcutta, first class	.. Seventy-five rupees.
Calcutta, second class	.. Twenty-five rupees.
Calcutta, third class	.. Ten rupees.
Provincial	.. One hundred and fifty rupees.
Conversion of licence	.. The difference between the duty payable on the licence held and on that into which it is sought to be converted plus one rupee.

STATEMENT OF OBJECTS AND REASONS.

The Bill has been framed to supplement the provisions of the Bengal Money-lenders Act, 1933. It has been framed as a separate Act. The Act of 1933 does not apply to Calcutta within the limits of the Ordinary Original Jurisdiction of the High Court, on the other hand it applies to all loans made by Banks. As regards the latter point the additional sub-section (3) added to section 10 of the Act of 1933 by the Government of India (Adaptation of Indian Laws) Order, 1937, may be seen. The powers of the Provincial Legislature are to some extent limited by the terms of Articles 28 and 38 of List I of Schedule VII of the Government of India Act, 1935; and the limitation extends not only to prevent fresh legislation on the matters covered by those articles, but also to prevent amendment of such parts of the Act of 1933 as relate to them. For this reason no attempt has been made to amend the Act of 1933, but a self-contained Bill has been framed, confined to such matters as it is believed are within the competence of the Provincial Legislature, and a general provision has been made in clause 42 of the Bill to exclude from the operation of the Act of 1933 any loan or any transaction connected with a loan which is subject to this Bill.

2. By the definition of "loan", certain lending transactions have been excluded from the operation of the Bill; for example, loans to or by Governments, or by certain societies including co-operative societies and also loans by banks and Insurance concerns. Loan, however, includes loans in kind. A "lender" has been defined as anyone who advances a loan, while a "money-lender" is defined so as to limit the term to the class of what may be called professional lenders. Chapters III, IV and V make provision for strict regulation of this class, requiring them to be licensed and to keep certain accounts and furnish certain information to borrowers, machinery being provided for the courts to enforce compliance with, or, in some instances, to penalize non-compliance with those provisions.

3. Chapter VI contains provisions regulating rates of interest on all loans, including the abolition of compound interest, as such; by the definition of "suits to which this Act applies" certain of these provisions are limited in their operation to loans and agreements made after the Act comes into force, the definition being similar to that in section 2, sub-section (3) of the Usurious Loans Act, 1918. Provision has also been made in this Chapter to limit the amount of charges and other incidental expenses in relation to loans.

4. Chapter VII contains a provision for orders for instalments in the case of all decrees in respect of loans, whether passed before or after the commencement of the Act. It has also provision similar to that in section 3 of the Usurious Loans Act, 1918, for re-opening transactions that offend against the provisions of the Act. There is provision for a borrower to move the courts for taking accounts, and for the lender to convert any declaration so obtained into a decree on payment of the necessary court-fee. There is provision similar to that in section 9 of the Bengal Money-lenders Act, 1933, for deposit of dues in court. There is penal provision against any one who takes a document which does not state the true facts as to the transaction of loan to which it relates, and also against molestation of borrowers, and also against defaults in complying with the provisions of the Act.

MUSHARRUF HOSAIN,

Member-in-charge.

CALCUTTA:

The 14th July 1938.

Notes on Clauses.

Clause 1.—The date of commencement has been left to notification by Government because a considerable amount of rule-making (*vide* clause 41) requiring previous publication will be necessary to provide for the working of the Act.

Clause 2.—The definitions calling for comment have been dealt with in the Statement of Objects and Reasons.

Clauses 3 and 4.—These read with sub-clause (15) of clause 2 specify the courts which shall deal with licencing matters and regulate their procedure and provide for appeals. As the area in a subdivision does not always coincide with the jurisdiction of a munsifi, and as it may also be desirable to limit jurisdiction to the more senior munsifs, it has been left for the Provincial Government to empower munsifs to hear matters in relation to subdivisonal or police-station licences.

Clauses 5 and 8.—It will not be possible for the licencing provisions of the Act to operate immediately it comes into force; in clause 8 it is provided that these provisions shall operate from a date not less than six months after the commencement of the Act, and the licence year will then run accordingly from the date when these provisions begin to operate. It is necessary to leave time for the licencing machinery to be developed and for money-lenders to obtain their licences. These clauses have been framed accordingly.

Clauses 6, 7 and 9 to 11.—These contain provision for the machinery of Registration and licencing; licencing is to be by areas, fees being charged as in the schedule. The Registrar may make such summary enquiry as he deems necessary, and in clause 11, sub-clause (4), is given certain powers of summoning witnesses, etc. He is also given powers where he finds that a money-lender has been operating without a licence or without a proper licence to enforce the taking out of such licence and of imposing a penalty.

Clause 12.—This ensures that the courts shall insist that a money-lender was duly licenced at the time he made the loan in respect of which he is suing, and gives at the same time power to the court to enforce payment of licence fee and opportunity to the money-lender to make good his default where such has occurred. Provision is also made that default in the year of the loan can only be remedied by payment of all previous outstandings, and there is also provision for a penalty. Sub-clause (5) has been framed with a view to stop a possible loophole, viz., avoidance of the requirements of the Act by assignment of the debt.

Clause 13.—This lays down the grounds for refusal of a licence; an appeal to a competent court as specified in chapter II is provided. Provision is made for removal by the Provincial Government of the disqualification on conviction of certain criminal offences which is provided for in sub-clause (1) (d).

Clauses 14 and 15.—These give powers to courts to suspend and cancel licences in certain circumstances, and also give rights of appeal against such orders, and make provision for circulation of information.

Clause 19.—This provides a penalty against concealment of facts in making application for a licence.

Clause 20.—This provides the minimum requirement as regards accounts to be kept by a money-lender, and that he shall furnish a statement in prescribed form as to a loan, a receipt for each payment, and take proper steps when repayment is made in full.

Clause 21.—This provides for a yearly statement of accounts to be furnished by a money-lender, and for furnishing a statement when required by the borrower on payment of a fee.

Clause 23.—This provides the sanction for enforcement of the provisions of clauses 20 and 21.

Clause 24.—This exempts companies from the provisions of chapter IV.

Clauses 25 and 26.—These relate to assignment of debts and make further provision to ensure that the objects of the Act shall not be defeated by assignment, while at the same time giving protection to *bona fide* assignees. *Vide* also clause 12(5).

Clause 27.—This clause (like several others in the present Bill) is based on similar provision made in the (English) Money-lenders Act, 1926 (4 and 5 Geo. c. 59 section 9), and limits the rights of a money-lender in insolvency and similar proceedings, postponing his right to more than five per cent. per annum interest till after the claims of other creditors have been satisfied.

Clause 28.—This repeats the “damdupat” provision in sections 4 and 6 of the Bengal Money-lenders Act, 1933. It applies to loans advanced whether before or after the commencement of the Act, and in respect of such loans, made before the commencement of the Bengal Money-lenders Act, 1933, as are also covered by the present Act, it removes the discretion given to the courts in section 4 of that Act to make allowance where they were satisfied that the money-lender had reasonable grounds for not enforcing his claim earlier. As that Act has already been in force for nearly five years, it is no longer necessary to provide for the exercise of any such discretion. The provision will apply to suits whether instituted before or after the commencement of the Act.

Clause 29.—By this clause rates of interest have been limited to twenty-five and fifteen per cent. in the case of loans in kind and to twelve and eight per cent. in the case of other loans, for unsecured and secured loans, respectively.

Clause 30.—This abolishes compound interest and is based on similar provision in the (English) Money-lenders Act, 1926. Allowance is, however, made for recovery of simple interest on any instalment of interest in default, the rate being governed by the provisions of clause 29.

Clause 31.—This has been introduced to make clear how calculation is to be made of the equivalent rate of interest in respect of a loan in kind.

Clause 32.—This makes provision to limit charges and incidental expenses.

Clause 33.—This provides for orders of instalments to be made in respect of decrees relating to loans made before or after the Act, sub-clause (2) has the effect of providing for an appeal.

Clause 34.—This repeats section 3 of the Usurious Loans Act with special reference to the provisions of this Bill. Sub-clause (2) repeats section 4 of that Act and applies the provisions of the Bill to certain insolvency proceedings.

Clause 35.—This makes provision for the borrower to obtain accounts through the courts, and, where any sum is found to be payable by the borrower, enables the lender to convert the declaration of the court into a decree on payment of proper court-fee. Provision is also made for the procedure to be followed and for the effect of the decision as *res judicata*.

Clauses 36 to 42.—Such of these clauses as call for comment have been referred to in the Statement of Objects and Reasons.

By order of the Governor,

H. D. BENJAMIN,

Secy. to the Govt. of Bengal.

BENGAL LEGISLATIVE ASSEMBLY DEPARTMENT.

7

THE BENGAL MONEY-LENDERS BILL, [1938.] 1939.

The Report of the Select Committee

with

The Bill, embodying amendments recommended by them, annexed.

X63: (2262). N38t

99

(The 24th January 1939.)

Report of the Select Committee on the Bengal Money-Lenders Bill, 1938.

We, the members of the Select Committee to which the Bengal Money-Lenders Bill, 1938, was referred by a motion carried in the Bengal Legislative Assembly on the 5th August, 1938, have the honour to submit this our final report with the Bill embodying amendments recommended by us annexed. Matters recommended by us to be omitted have been printed in italics and enclosed in square brackets and all new matters recommended to be inserted have been underlined.

2. The Bill was published before introduction in an extraordinary issue of the *Calcutta Gazette*, dated the 18th July, 1938.

3. The Committee met for the first time on the 11th August, 1938, and continued their sittings till the 13th August, 1938. But as the deliberations could not be finished by the 15th August, 1938, the date appointed in this behalf by the Assembly, the Chairman of the Committee presented an *interim* report to the House on the said 15th August, 1938, and on the requisition of the Committee the time for submission of the final report was extended by the Assembly till the 31st October, 1938. The Committee could not, however, finish their deliberations even within this extended period and continued their sittings till the 21st December, 1938, with the special permission of the Hon'ble Speaker.

4. The Bill has been substantially altered by our recommendation and we consider that it requires republication.

5. The changes made in the Bill, apart from mere formal and technical alterations, are as follows:—

CHAPTER I.

Clause 2—Sub-clauses (1), (4), (5), (6), (15), (16).—We have omitted the definitions of "Bank", "Company", "Co-operative Society", "Insurance Company", "Proceedings under this Act", "Provident Insurance Society" as we consider these unnecessary in view of alterations suggested by us in the body of the Bill.

We have considered it desirable to insert a definition of "borrower" in sub-clause (1) as this term occurs frequently in the Bill.

Sub-clause (2).—We have revised this, in consonance with the subsequent recommendations in the Bill.

Sub-clause (10).—We have modified the definition of "loan" by excluding advances without interest as we do not consider it desirable to treat such advances as "loan" for the purposes of this Act.

Sub-clause (10)(a).—In modifying this we intended to exclude all kinds of deposits of money or other property, not only in Post Office Savings Banks or with any Banking Company or Co-operative Society but at any place whatsoever, from the category of loan.

Sub-clause (10) (d) and (f).—We have omitted these as we did not consider it advisable to exclude loans to or by Banks, etc., or mercantile loans from the purview of this Act. Our intention in making this amendment was also to control the Banks and mercantile loans and restrict flow of money from rural areas to Banking concerns and mercantile centres.

The explanations under this sub-clause have been omitted as unnecessary.

Sub-clause (19)(a).—The alterations here are consequential on our subsequent recommendation in the Bill.

CHAPTER II.

We found it desirable to have this chapter redrafted on account of material and extensive changes recommended by us. Our recommendation for elimination of different classes of licences for money-lenders as contemplated in the original Bill has necessitated a revised definition of Competent

Courts. We have thought it preferable to let the Court of Small Causes, Calcutta, have original jurisdiction over proceedings under clause 14 of this Bill in relation to cases arising in Calcutta and have provided for appeal from its decisions to the High Court. The District Judge's was considered by us to be the most suitable Court for cases arising outside Calcutta either for disposal by itself or for transferring them to suitable subordinate courts for such disposal. We have provided for appeal from decisions of the Mufassil Courts in accordance with the provisions of the Civil Procedure Code. We have also extended the application of section 24 of the Code of Civil Procedure for cases coming under this Act.

CHAPTER III.

This chapter has, for similar reasons, been redrafted and the following alterations have been made in the clauses :—

Clause 5 has been omitted as unnecessary.

Clause 6 has been expanded and we have found it desirable to provide for appointment of Sub-Registrars of money-lenders in addition to the Provincial Registrar and Registrars.

The proviso has been inserted to avoid additional expenditure on account of these officers as far as is practicable.

Clause 8.—The alteration here has been necessitated by our recommendation in the subsequent clauses.

Clause 9.—We considered it undesirable to have different classifications for licences of money-lenders either on the basis of area or pecuniary limit of their business, as we thought that this might lead to complications and administrative inconvenience and have therefore provided for only one class of licence for the Province which should be renewable at the end of every three years.

Clause 9A is practically the original schedule to the Bill modified in consequence of our recommendation in clause 9. We consider a fee of Rs. 15 adequate for a triennial licence. In the proviso we have considered it advisable to allow the Provincial Government a discretionary power in reducing licence fees in appropriate cases or classes of cases.

Clauses 10, 11 and 12.—The amendments here are of a consequential nature. We have made it incumbent on the Court to penalise the money-lender who has not taken a licence instead of leaving it to its discretion.

Clauses 12A and 12B.—In these new clauses we have provided specifically for the disqualifications for holding a licence and also the method for proving such disqualifications. Our object here was to clarify the intention and simplify the procedure.

Clause 13.—This clause has been recast and expanded to make the provision for refusal of licence unambiguous. We have also made more exhaustive provision for appeals and revisions against orders of such refusal. We have considered it desirable to leave the procedure with regard to these matters to be prescribed by rules.

Clauses 13A and 13B.—These new clauses have been found necessary as we thought that the Sub-Registrars should have the power to cancel licences and as it would be impossible for them to function properly without requisite powers for compelling the attendance of witnesses.

Clause 14.—We did not think that any borrower, placed as they are under the clutches of the money-lenders, would make any frivolous complaints. We did not therefore consider it proper to put any obstacle on their path in making applications against undesirable money-lenders and have therefore omitted the restrictions.

Clause 15.—This clause has been recast and expanded. This provisions about cancellation of licences including the procedure, extent of penalty and appeals have been clearly provided in the modified clause.

Clause 17 has been omitted as unnecessary.

CHAPTER IV.

Clause 20.—(1) We considered it essential that all accounts of money-lenders carrying on business in Bengal including receipts should be kept in the language of the province and have amended the clause accordingly.

(2) We have slightly amended this sub-clause providing for delivery of statements or receipts as soon as a loan is advanced or a payment is made, to avoid any possible difference which may be caused by lapse of time.

Clause 21—Sub-clause (1).—We have recommended that the statement of accounts must be submitted in Bengali in the spirit of earlier recommendations.

Sub-clause (1) (a) (a).—This is intended to cover cases of continuous transactions.

Sub-clause (2).—We did not consider it proper for the lender to charge any fees from the borrower for supplying him with statements which the latter can reasonably demand. The proviso to this has been inserted as we thought this would avoid too frequent demands for statements.

Sub-clause (3) has been amended by omission of “fees” and also by providing that the borrower should get copies only of documents evidencing the loan but not of any other document or security connected with it. Here again a proviso has been added to put a check on unnecessary demands.

Sub-clause (4).—We have thought fit for the convenience of the people of the province to define “year” as the Bengali year.

Clause 24.—We did not consider it expedient or desirable to give the Provincial Government any power as contemplated by the original clause and have therefore omitted it. Our intention was to bring all classes of lenders or money-lenders under uniform treatment.

CHAPTER V.

Clause 25.—We have considered the provision for indemnity in sub-clause (1) as an inadequate penalty against the defaulter and have provided for imprisonment and fine as more appropriate. In the new sub-clause (3) we have made the meaning of “assignment” clear.

Clause 26.—We have inserted “lenders” in this clause for obvious reasons.

Clause 27 has been omitted as unnecessary.

CHAPTER VI.

Clauses 28, 29 and 30.—These clauses have been redrafted and our recommendations in this connection have been embodied in the new clauses 28 and 29. In these new clauses we have considered it desirable to provide that the lender should on no account recover more than the original loan as interest. We have further provided that when part of the principal has been paid, the interest on the balance should never exceed the amount of such unrealised balance. We have recommended total abolition of compound interest and have found it extremely desirable to reduce the maximum rate of interest recoverable to 8 per cent. per annum for secured and 10 per cent. per annum for unsecured loans irrespective of whether such interest accrues before or after the commencement of this Act. We have further thought it desirable not to allow any interest after a decree is passed in any suit to which this Act applies, as our intention was to avoid interest on any interest on any form whatsoever.

Clause 31.—The words “of interest” have been omitted to include assessment of principal as well.

Clause 32.—We have omitted the proviso as this might lead to undesirable results and may be an instrument of unreasonable exactions by the money-lenders, who should, in our opinion, be prepared to incur all such reasonable expenditure when he lends money on interest.

CHAPTER VII.

Clause 33.—Our recommendations regarding instalments have been elaborately embodied in the redraft of this clause. In giving detailed directions our intention was to give the debtors all reasonable facilities in repaying their debt.

Clause 34.—This clause has been expanded and redrafted giving the Courts more power than was originally intended. We have thought it expedient to permit reopening of all transactions in connection with money-lending unreasonably closed or adjusted for a period of twelve years previous to the passing of this Act, as in our view a period of three years as originally provided would not meet the ends of justice.

We have however, given the Courts power to re-open decrees only when passed between the 1st January, 1939 and the date when this Bill passes into law and to order refund in cases of payments made in excess of the rates provided in this Bill when such payments are made after the 1st January, 1939. Details of procedure in this connection which cover executions, appeals and review have also been specifically provided for to avoid any possible confusion.

Clause 34A.—We have in this new clause provided for exemption of judgment-debtors from arrest and detention in prison as we thought these were undesirable tools in the hands of oppressive money-lenders.

Clause 35—Sub-clause (1).—We have provided the fee in the Bill itself instead of leaving it to be prescribed by rules, over which the Legislature might not have any say.

Sub-clause (3).—This sub-clause has been omitted as we thought it might tempt the money-lender in bringing premature suits.

Clause 36.—In this clause we have omitted the provision for “prescribed fee” for depositing any money tendered to but refused by the lender. The charging of any fee in such cases is bound to result in hardship. The other amendments are of a consequential nature.

Clause 37—Sub-clause (1).—We have included “bond” in this sub-clause as this is one of the commonest kind of instruments which form the basis of loans.

Sub-clause (2).—We thought it desirable to introduce the element of “intention” as otherwise *bona fide* mistakes might come under the mischief of this clause. For deliberate misrepresentations we have thought it fit to make the section more stringent and have provided for the penalty of imprisonment in addition to fine.

Clause 37A.—This new clause has been provided as a safeguard against default in passing of the full consideration on a registered document. As the parties would at some stage appear before a registering officer, there can be no difficulty if the consideration passes in his presence.

Clause 37B.—We thought that the provisions of Chapters III and IV would lead to various complications if applied to “commercial loans” as we have defined, and have therefore specifically excluded the operation of those chapters on such loans.

Clause 38.—We considered the original provisions regarding penalty inadequate and have raised both fine and imprisonment to what seemed to us to be justified by the nature of the offence.

Clause 39—Sub-clause (1) has been slightly modified. We did not consider it fair that every adult coparcener should be punishable and have confined the punishment to the Manager only who would be mainly responsible for the mischief. We also thought it expedient to provide for punishment of those only who “knowingly or wilfully” commit or permit any default or contravention. This is intended to disregard *bona fide* and unintentional mistakes.

Sub-clauses (2) and (3).—These new sub-clauses are intended as safeguards against frivolous complaints.

Sub-clause (4) has been introduced to distinguish offences punishable under this clause from ordinary offences under the Indian Penal Code.

Clause 41.—The amendments in this clause are mostly of a consequential nature and have been made to conform to the altered provisions in the Bill.

THE SCHEDULE.

The original schedule has been omitted in consequence of the amendment in clause 9 and insertion of clause 9A. In the new schedule we have specifically mentioned the offences which in our opinion are sufficient to disqualify a money-lender from holding a licence, in terms of the new clause 12A of the Bill.

*MUSHARRUF HOSSAIN,

Member-in-charge.

*ABDUL BARI.
 *MIRZA ABDUL HAFIZ.
 *G. MORGAN.
 *SASHI KANTA ACHARYYA CHOWDHURY.
 *JOGESH CHANDRA SEN.
 *D. P. KHAITAN.
 *L. M. CROSSFIELD.
 *MONORANJAN BANERJEE.
 *J. C. GUPTA.
 *S. N. BISWAS.
 *NALINAKSHA SANYAL.
 *KSHETRA NATH SINHA.
 *ABDUL LATIF BISWAS.
 *MD. ISRAIL.
 *MD. MOZAMMEL HUQ.
 *AFTAB HOSAIN JOARDAR.
 *FAZLUR RAHMAN.
 *SYED MD. AFZAL.
 *AHMED HOSSAIN.
 *SHAH SYED GOLAM SARWAR HOSSAINI.
 *RAJIBUDDIN TARAFDAR.
 *A. C. KUMAR.
 *SYED ABDUL MAJID.
 *ABDULLA-AL MAHMOOD.
 *ABDUL HAKIM.
 *A. M. A. ZAMAN.
 PULIN BEHARY MULLICK.
 SHAH ABDUR RAUF.
 ZAHUR AHMED CHOUDHURY.

K. ALI AFZAL,

Secretary to the Bengal Legislative Assembly.

*Signed subject to a minute of dissent.

NOTE.—(1) No minutes of dissent had been received from the Hon'ble Nawab Musharruff Hossain, Khan Bahadur, Mr. A. C. Kumar, Mr. Syed Abdul Majid, Mr. Abdulla-al Mahmood, Maulvi Abdul Hakim and Mr. A. M. A. Zaman up to the time of printing the report.
 (2) Signatures of the Hon'ble Mr. Nalini Ranjan Sarker, the Hon'ble Mr. H. S. Suhrawardy and Mr. Abdul Hashim had not been received up to the time of printing the report.
 (3) Mr. R. H. Ferguson has since resigned.

Note of Reservation by the Hon'ble Nawab Musharruf Hossain, Khan Bahadur, on the Bengal Money-Lenders Bill, 1938, as amended by the Select Committee.

The Bill has been materially altered in the Select Committee. I reserve the right of freedom of action in respect of it.

..

higher interest as every loan will be shown as a loan in kind.

Clause 34.—The proviso to clause 34 nullifies the effect of the substantial clause 34 and makes nugatory the provisions of clauses 28 and 29. This proviso to clause 34 cuts at the very root of the whole Bill and runs counter to the wishes of the majority of the members of the Assembly.

To extend the operations of this Act to the Co-operative Societies would ring the death-bell of the Co-operative Movement of the province. Apart from commercial business the agriculturists for whose benefit primarily this Act is being enacted will be seriously affected. The sources of money are being already dried up in the mufassil and the winding up of the Co-operative Movement would add to the miseries of the people when they stand urgently in need of money. To bring the Post Office Savings Bank, Bank or Company within the purview of this Act, would in the long run, bring about the ruin of the country because banking and business are really the signs of the prosperity and growth of a country. A distinction ought to be drawn between agricultural and commercial loans.

Minute of dissent by Mr. Mirza Abdul Hafiz, M.L.A.

* * * * * I reserve the right of moving further amendments in the House as I think right and proper for the good of the indebted province.

Sub-clause 2(10)(f).—By the deletion of this sub-clause a loan advanced to be used by the borrower for the purpose of any business or concern relating to trade, commerce and industry has been thought advisable not to be excluded from the purview of this Act in apprehension that if it is excluded then almost every money-lender in order to avoid the stringency of the Money-Lenders Act would persuade rather compel every borrower to give a bond with the stipulation of business concern for whatever purposes it may be at the threatening of not advancing money at all. It is not unnatural and improbable that some money-lenders may not adopt the same obnoxious course to avoid the provision of the Act on the plea of trade, commerce and industry but at the same time, I fear and perhaps rightly fear, that for such inclusion and control of mercantile loans the business of the province cannot but suffer which would be most detrimental to the cause of economical advancement of the country. According to me the gain under the present circumstances which is expected by control of mercantile loans to suppress some obnoxious tactics probably adopted by some law-avoiding money-lenders would be dwindled into naught in comparison with the loss that is apprehended in the business world at large. Of course it may be to a great extent rightly said that the business of the province has already been suffering from heavy indebtedness and if it is brought under the operation of this Act it may be released from the grip of such debt within a very few years after which a steady progress may set in motion in the field of business and many members of the Select Committee had that view in their minds to amend the clause. But still I think that with some restrictions and limitations so that the lenders may be confronted with sufficient checks to adopt such heinous tactics to avoid the Act, *bona fide* mercantile loans for the purposes of trade, commerce and industry should be excluded from the operation of this Act.

Joint minute of dissent by Mr. G. Morgan, M.L.A., Maharaja Sashi Kanta Acharjya Chowdhury, of Muktagacha, M.L.A., Rai Bahadur Jogesh Chandra Sen, M.L.A., Mr. D. P. Khaitan, M.L.A., and Mr. L. M. Grosfield, M.L.A.

We are of opinion that the Bill is *ultra vires* of the Provincial Legislature in, *inter alia*, so far as it affects—

- (a) Promissory Notes;
- (b) Corporations coming under Article 33 of List I of Schedule VII to the Government of India Act;
- (c) Banking coming under Article 38 of List I of Schedule VII to the Government of India Act;
- (d) Acts passed by the Central Legislature, e.g., Civil Procedure Code, Contract Act, Transfer of Property Act, etc.

We do not agree with several provisions of the Bill as amended by the Select Committee, *inter alia*—

- (a) the definition of "Loan", particularly as commercial loans, dealings by Banks, etc., and Promissory Notes are not exempted from the operation of the Bill;
- (b) the definitions of "money-lender" and "money-lending business", as the same are too wide and should at least be brought into conformity with the British Law on the subject;
- (c) the definition of "suit to which this Act applies" in so far as it is made retrospective in effect;
- (d) clauses 20 and 21 enforcing that the books of accounts are to be kept and statements are to be delivered in the Bengali language only;
- (e) extending the rule of damdupat to apply to interest already paid or included in any decree;
- (f) the provisions of clause 28(I)(b);
- (g) the maximum rates of interest provided for particularly in so far as they are given retrospective effect;
- (h) the application of the maximum rates of interest to commercial loans;
- (i) clause 29 disallowing any interest on the decretal amount;
- (j) the deletion of the proviso to clause 32;
- (k) the provisions of clause 33;
- (l) the provisions of clause 34 seeking to extend the provisions of section 3 of the Usurious Loans Act, 1918;
- (m) the provisions of clause 34A overriding the provisions of the Civil Procedure Code;
- (n) the provisions of clause 36(3) in so far as it enables the borrower to earmark a payment to be on account of principal while interest is due;
- (o) the omission of Chapter V from clause 37B, although the Select Committee decided to include that chapter in clause 37B and such decision was never reversed.

We reserve to ourselves the right to move or support any amendments that we consider to be proper.

Minute of dissent by Mr. Monoranjan Banerjee, M.L.A.

Before we proceed to go into the details of our dissent we think we should place on record our disappointment at the failure of our attempts to improve the Bill. The object of the Bill, though not expressly stated, was evidently to provide for strict regulation of the professional money-lenders. So far as that object was concerned we had no difference of opinion. But * * * * * the majority members of the Committee * * * in their over-jealousness to give relief to the debtors proposed and carried such measures as are likely to cut the root of future money-lending business. There is no gainsaying that the application of the Bengal Agricultural Debtors Act of 1935, while affording some relief to the debtors in so far as their existing debts are concerned, has resulted in drying up all the channels of credit-supply in the mofussil in general and in the rural area in particular. However, the said Act being a temporary measure its effects also were to be temporary. But the Money-Lenders Bill, if passed into law, will be a permanent statute and we expected that the experience of the peoples' representatives in the Select Committee would influence them to so provide in the Bill that the dried channels of credit-supply might be rehabilitated. Unfortunately, the majority * * did not look at the Bill

from that point of view. They went further than the authors of the Bengal Agricultural Debtors Act and acted upon an idea that there was no more necessity of any person for incurring any debt. The rates of interest for future loans were not matters of much dispute. There was a general agreement in respect of the rates of interest. But the provisions of clauses 33 and 34 which relate to realisation of debts have been so laid down that every money-lender, whether an individual or a corporate body, will think thrice before lending any money to anybody for any purpose, whether on credit or against security. Where we expected that our experience would influence us to ease the realisation of future debts, the measures that have passed through majority votes have further tightened it. If these measures are passed as law, the prospective borrowers of every section of the society, in whose interest such law is purported to be made, will resent it more than the money-lenders. We raised this alarm in the course of our debate but our voice was whittled down.

Then as regards the realisation of the existing debts, we were in favour of giving the debtors as much relief as was reasonably possible in addition to the relief contemplated by the Bengal Agricultural Debtors Act; but some such provisions have been carried * * * * * as, when passed into law, may in many cases result in serious loss to innocent money-lenders and in dislocation of trade and industry; even a popular money-lender, who lent the money on small rates of interest within the limits, prescribed by the Bill and whose debtor also was gladly paying the interest, may suddenly find his or her capital on whose interest he or she had been living with his or her children, vanishing all on a sudden, his or her offence being that the debtor was allowed to keep the loan unrepaid for a long time to his own benefit because it was carrying small rates of interest.

Reserving our further comments on the outlook with which the majority of the members of the Committee approached the Bill for a future date and at the proper place, we now note below our dissent from several provisions of the Bill as have emerged out of the Select Committee, *inter alia*,—

(1) **Clause 2.**—(a) The definitions contained in sub-clauses (1), (4) and (5) should have been retained.

(b) Sub-clause (10) (f) which exempted commercial loans from the operation of the Bill should have been retained.

(c) Explanations (1), (2) and (3) should have been retained.

(d) The definition of "money-lending business" as contained in sub-clause (12) should have been more clear and definite, so that a friend lending money to a friend for short-time accommodation might not be scared away.

(e) The words "before or" in sub-clause (19) (b) should not have been inserted.

(2) **Clause 20.**—The money-lenders who transact business in Calcutta and mofussil towns should have been allowed to keep their accounts in Bengali or English.

(3) **Clause 21.**—Statements by the abovementioned money-lenders should have been allowed to be delivered in English or Bengali as the borrower would desire.

(4) **Chapter IV.**—Government should have been vested with the power to exempt certain classes of money-lenders from the operations of the provisions of clauses 20 and 23, such as agriculturists who lend money on usufructuary mortgage and widows and orphans whose money-lending business does not exceed three hundred rupees.

(5) **Clause 25.**—The punishment should have been less severe.

(6) **Clause 28.**—(a) Sub-clauses (a) and (b) should have exempted loans carrying interest within the limits prescribed in this clause.

(b) In sub-clause (c) (ii) there should have been differentiation between loans secured against immovable property and loans against liquid securities.

(7) **Clause 29.**—Such a clause should not have found place in the Bill.

(8) **Clause 32.**—The proviso should have been retained.

(9) **Clause 33.**—(a) Granting of instalments in decrees should not have been made obligatory by substituting the word "shall" in the place of "may" of the original Bill.

(b) Stopping payment of interest on instalments in mortgage decrees and allowing interest at the rate of three per cent. only on instalment in default could not be supported.

(c) At the time of the preliminary decree in a mortgage suit the Court ordinarily grants some time for payment before the final decree. The Court should have been given wider discretion, but instalments for ten years is not only excessive but out of proportion.

(d) In simple money-decrees, the Court's power to give instalments over a period up to twenty years and the mandate upon the Court to order that in default of payment of one instalment, that instalment only and not the whole amount due shall be recoverable and that too without interest were unsupportable.

(10) **Clause 34.**—(a) Sub-clause (a) was unsupportable.

(b) Sub-clause (d) should have excluded commercial loans from its operation.

(c) Re-opening of any agreement or adjustment within a period of twelve years was not supportable.

(d) No provision should have been made for refund on interest paid at the rates allowed by law.

(11) **Clause 36.**—The language of sub-clause (3) should have been clear enough to debar a borrower from earmarking a deposit towards payment of the principal or any part thereof before paying the entire amount of interest due.

(12) **Clause 37B.**—Chapter V should have been included in sub-clause (1).

(13) **Clause 39.**—The word "Hindu" in sub-clause (b) was put unnecessarily.

We reserve the right to move or support any amendment to any of the provisions of the Bill, that we consider fit.

We cannot conclude without observing that some provisions of the Bill were *ultra vires* of the Provincial Legislature * * * * *

Joint minute of dissent by Mr. J. C. Gupta, M.L.A., and Mr. S. N. Biswas, M.L.A.

We are of opinion that the Bill as it has emerged out of the Select Committee will fail in its object. The Bill was intended to give protection to helpless borrowers against excessive rate of interest and harassment at the hands of professional money-lenders. But the amendments carried by a majority of votes, we are afraid, will result in the destruction of credit supply altogether, particularly in the rural areas, and will also result in dislocation in trade and industry in the Province.

Some of the members * * * * * openly stated more than once during discussion that we need not be concerned about credit facilities and that the people of Bengal needed no loans or credit-supply in future. It was further said that those who had engaged themselves in money-lending business in the past were all pests of the society and should be wiped out of existence. Owing to prevalence of such sentiments our attempts to ensure the laudable object of the Bill and to improve the Bill failed.

Reserving our further comments on the outlook with which the majority of the members of the Committee approached the Bill for a future date and at the proper place, we now note below our dissent from several provisions of the Bill as have emerged out of the Select Committee, *inter alia*—

(1) **Clause 2.**—(a) The definitions contained in sub-clauses (1), (4) and (5) should have been retained.

(b) Sub-clause (10)(f) which exempted commercial loans from the operation of the Bill should have been retained.

(c) Explanations (1), (2) and (3) should have been retained.

(d) The definition of "money-lending business" as contained in sub-clause (12) should have been more clear and definite, so that a friend lending money to a friend for short-time accommodation might not be scared away.

(e) The words "before or" in sub-clause (19)(b) should not have been inserted.

(2) **Clause 20.**—The money-lenders who transact business in Calcutta and mofussil towns should have been allowed to keep their accounts in Bengali or English.

(3) **Clause 21.**—Statements by the abovementioned money-lenders should have been allowed to be delivered in English or Bengali as the borrower would desire.

(4) **Chapter IV.**—Government should have been vested with the power to exempt certain classes of money-lenders from the operations of the provisions of clauses 20 and 23, such as agriculturists who lend money on usufructuary mortgage and widows and orphans whose money-lending business does not exceed three hundred rupees.

(5) **Clause 25.**—The punishment should have been less severe.

(6) **Clause 28.**—(a) Sub-clauses (a) and (b) should have exempted loans carrying interest within the limits prescribed in this clause.

(b) In sub-clause (c)(ii) there should have been differentiation between loans secured against immovable property and loans against liquid securities.

(7) **Clause 29.**—Such a clause should not have found place in the Bill.

(8) **Clause 32.**—The proviso should have been retained.

(9) **Clause 33.**—(a) Granting of instalments in decrees should not have been made obligatory by substituting the word "shall" in the place of "may" of the original Bill.

(b) Stopping payment of interest on instalments in mortgage decrees and allowing interest at the rate of three per cent. only a instalment in default could not be supported.

(c) At the time of the preliminary decree in a mortgage suit the Court ordinarily grants some time for payment before the final decree. The Court should have been given wider discretion to extend that time, but instalments covering six months were not supportable.

(d) In simple money-decrees, the Court's power to give instalments over a period up to twenty years and the mandate upon the court to order that in default of payment of one instalment, that instalment only and not the whole amount due shall be recoverable were unsupportable.

(10) **Clause 34.**—(a) Sub-clause (a) was unsupportable.

(b) Sub-clause (d) should have excluded commercial loans from its operation.

(c) Re-opening of any agreement or adjustment within a period of twelve years was not supportable.

(d) No provision should have been made for refund of interest paid at the rates allowed by law.

(11) **Clause 36.**—The language of sub-clause (3) should have been clear enough to debar a borrower from earmarking a deposit towards payment of the principal or any part thereof before paying the entire amount of interest due.

(12) **Clause 37B.**—Chapter V should have been included in sub-clause (7).

(13) **Clause 39.**—The word "Hindu" in sub-clause (b) was put unnecessarily.

We reserve the right to move or support any amendment to any of the provisions of the Bill, that we consider fit.

We cannot conclude without observing that some provisions of the Bill were *ultra vires* of the Provincial Legislature.

Minute of dissent by Dr. Nalinaksha Sanyal, M.L.A.

I place on record my emphatic protest against the form in which the Select Committee's Report has been drafted whereby certain supposed convention has been invoked to hide * * * * * the real character of the Report, and I sign the Report subject to the following note of dissent. I do this more as a student of Economics than as a member of a political Party.

The Bill as it has emerged from the Select Committee fails to ensure the maintenance of suitable credit machineries for different classes of the population, particularly, for the agriculturists, and if passed into law, is likely to cause great hardship to the masses, as it is bound to dry up very largely the present sources of credit.

The following points in particular should receive serious consideration:—

(1) The majority of members of the Select Committee have, in my opinion, failed to appreciate the real purpose of a comprehensive legislation relating to money-lenders and the business of money-lending. They have approached the questions mainly from the point of view of an emergency measure calculated to scale down the burden of present indebtedness without due regard to the requirements of rural credit and other credit agencies.

(2) The Report seeks to apply the same set of measures for regulating all classes of credit transactions, agricultural, industrial and commercial, and problems of each of which are widely divergent and demand separate examination.

(3) The dealings of Joint Stock Banks, Insurance Companies, Building Societies, etc., and of Registered Corporations have been subjected to the same restrictive conditions as those of village money-lenders. * * * * * If the Bill in its present form is passed into law the development of sound banking in the country will be seriously jeopardised and probably the structure of the entire money market will be shattered; and those in need of credit for industrial, commercial and agricultural pursuits will be the greatest sufferers.

(4) So long as complete nationalisation of all institutions of production and State ownership and management of industrial, commercial, transport and credit undertakings are not achieved, the function of capital as a factor of production should not be underestimated and under present economic order the subjective as well as objective conditions of accumulation of capital in the society cannot be ignored.

(5) At a time when Bengal is on the threshold of an economic reconstruction involving the extension of industrial and commercial facilities, it will be suicidal to indulge in measures which may frighten away what little capital has just begun to be attracted. This will set-back the little progress attained and will probably increase unemployment.

(6) The Report infringes some of the fundamental principles of legislation, e.g., *nova constitutio futuris formam imponere debet non praeteritis*, a new law ought to be prospective, not retrospective in its operations.

(7) It is apprehended that some of the recommendations made in this Report are *ultra vires* of the Provincial Legislature, particularly, the provisions relating to Banks, Corporations and Negotiable Instruments. Certain subjects of concurrent Legislative List such as Civil Procedure, Transfer of Property, Contracts, Evidence, etc., are also affected.

A legislation of this character should not be proceeded with and public money spent in that connection before taking proper legal advice on such matters.

I reserve my right to move suitable amendments to the Bill in proper time and without prejudice to such a right I propose that the following changes in the various clauses should be made:—

Clause 1, sub-clause (3).—Government should be empowered to bring into force different provisions of the Bill, particularly those mentioned in Chapters 3 and 4 on separate dates as may be found practicable.

Clause 2, sub-clause (10) (f).—This excluding clause defining commercial transactions or any modified form thereof should be retained.

Clause 8.—Add the words “or to the firm, Corporation or joint-family of which he is a member”.

Clause 14.—It is unfair and impracticable to insist that all money-lenders in Bengal should write out their accounts in Bengali, much though this would be welcome. It should suffice, if money-lenders are required to supply to the borrower statements in Bengali or in the language of the borrower. This applies also to clause 21.

Clause 24, sub-clause (10) (f).—This should be reinstated.

Clause 25, sub-clause (2).—The punishment provided is much too severe.

Clause 28.—This should be thoroughly recast along following lines:—

- (i) clause 28 (a) may be applied to loans used for or in connection with agriculture, but should not apply to commercial loans, building societies' transactions and long term debentures of industrial concerns.
- (ii) clause 28 (c) should have a definite date stated, say, 1st January 1939, for the applicability of the new rates and the rates of interest should be such as may be recommended by the Reserve Bank of India from time to time in view of the state of the money market, world economic conditions and the rates prevailing in other Indian provinces, particularly in the adjoining provinces. A differentiation between loan against mortgages of immovable properties and secured loans against movable or readily realisable securities may be made if a lower maximum for the latter group is considered desirable.

Clause 29 should be deleted.

Clause 32.—Proviso should be reinstated.

Clause 33 should be entirely recast as it contains many absurd, unpractical and utterly unfair provisions.

Clause 34.—The provision for re-opening past transactions and for refunding excess payment should be left entirely in the discretion of the Court where a *prima facie* case of unconscionable and substantially unfair character of a loan has been made out.

Clause 37.—The receipt of blank transfer of shares and such instruments in commercial transactions as securities for loans should not be made illegal and failure to comply with the provisions of clause 37 (Z) should not entail such stringent punishment as in clause 37 (3).

Minute of dissent by Babu Kshetra Nath Singha, M.L.A.

1. I like to dissent in the provisions to include the commercial transactions within the purview of the Bill. My opinion is this that the world is fast approaching to economic revolution. While other countries are adopting a monopolistic principle and trying to be self-sufficient in their trade, industry and commerce, Bengal with her huge raw materials, should not lag behind and put obstructions to the free growth of her infant trade, industry and commerce and be at the kind mercy of foreign competition to the utter ruin and devastation of her home products.

2. In clause 36 (3) interest shall cease from the date of deposit to save the lender from harassment and uncertainty of date of service.

Minute of dissent by Maulvi Abdul Latif Biswas, M.L.A.

Clause 8.—In this clause provision has been made to the effect that no money-lender shall carry on the business of money-lending unless he holds an effective licence after such date, not less than six months after the commencement of this Act, as the Provincial Government shall, by notification in the *Official Gazette*, appoint in this behalf. So the virtual effect of this provision is that Government will be at liberty

not to appoint any such date for any length of time and the only restriction put upon the Government is that the Government is not entitled to fix up date within six months after the commencement of this Act. And if the Government desires it may fix up such date after two, three, six or twelve years or more. We have seen in our practical experience that some good laws or Acts have been proved to be ineffective and dead letters owing to the fact that no restriction was placed upon the Government as to the time within which those laws or Acts were to be put in force. It may so happen that many forces strong in their nature may work in such a way as to prevent the Government from putting these provisions into effect if no time limit is provided for the purpose. That is why I am of opinion that without giving the Government long rope it should be provided that the Government must enforce these provisions within a particular time, so that the provision, very salutary in effect, may not prove fruitless or dead letter for want of such restriction. So it is my proposal that the words "after such date not less than six months after the commencement of this Act" be substituted by the words "after such date not more than one year after the commencement of this Act".

Joint minute of dissent by Maulvi Md. Israil, M.L.A., Maulvi Mohammed Mozammel Huq, M.L.A., Maulvi Aftab Hosain Joardar, M.L.A., Mr. Fazlur Rahman, M.L.A. (Mymensingh), Khan Sahib Maulvi Syed Md. Afzal, M.L.A., Mr. Ahamed Hossain, M.L.A., Mr. Shah Syed Golam Sarwar Hossaini, M.L.A., and Maulvi Rajibuddin Tarafdar, M.L.A.

The rate of interest specified in clause 28, sub-clause (c) (i) and (ii) should, in our opinion, be 9 per cent. and 6 per cent. per annum in place of the rates proposed in the Bill, because the proposed rates of interest appear to us to be excessive in view of the impoverished condition of the debtors due to economic depression and other natural calamities that have befallen them.

THE BENGAL MONEY-LENDERS BILL, [1938.] 1939.

Preamble.

CHAPTER I.

**••
INTRODUCTORY.**

CLAUSe.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

POWERS OF COURTS IN PROCEEDINGS UNDER THIS ACT.

3. Competent Courts under this Act.
4. Procedure in Competent Courts.

CHAPTER III.

REGISTRATION AND LICENSING OF MONEY-LENDERS.

- [5. *Definitions.*]
6. Appointment of Provincial and other Registrars.
7. Register of money-lenders.
8. Money-lending business not to be carried on except under licence.
9. Licences.
- 9A. Licence fee.
10. Application for licences.
11. Entry in register and grant of licences.
12. Stay of suit when money-lender does not hold licence.
- 12A. Disqualification of persons for holding a licence.
- 12B. Proof of conviction or order for disqualification.
13. Refusal to grant licence.
- 13A. Cancellation of licence by a Sub-Registrar.
- 13B. Power to Registrar and Sub-Registrar to examine any person or oath.
14. Application for cancellation of licence.
15. Court's power to cancel [*or suspend*] a licence.
16. No compensation for cancellation [*or suspension*] of licence.
- [17. *Disqualification of person whose licence has been suspended or cancelled.*]
18. Licence [*duty*] fees and penalties recoverable as public demands.
19. Offences in respect of licences.

CHAPTER IV.

REGULATION OF ACCOUNTS OF MONEY-LENDERS.

20. Duty of money-lender to keep accounts.
21. Money-lenders to furnish statements of accounts.
22. Borrower not bound by money-lender's statement of accounts.
23. Procedure in suits relating to loans by money-lenders.
- [24. *This Chapter not to apply to banks, companies, etc.*]

CHAPTER V.

[Other Provisions relating to Money-lenders.] ASSIGNMENT OF LOANS.

25. Notice and information to be given on assignment of loans by [*money-*]lender.
26. Application of Act as respects assignees.
- [27. *Provisions as to insolvency proceedings for loans by money-lenders.*]

CHAPTER VI.

INTEREST AND OTHER CHARGES.

CLAUSE.

28. Limitations as to [*amount of*] the amount and rate of interest recoverable.
29. [*Limitations as to rate of interest recoverable.*] Prohibition of interest on decrees of amount.
- [30. *Prohibition of compound interest and provision as to default.*]
31. Computation of interest on loans in kind.
32. Prohibition of charges for expenses on loans.

CHAPTER VII.

MISCELLANEOUS

33. Power [*to*] of Court to direct payment by instalments.
34. Re-opening of transactions.
- 34A. Prohibition of execution of decrees by arrest and detention in prison.
35. Inquiry for taking accounts and declaring the amount due.
36. Deposit in Court of money due to lender.
37. Entry of an amount in a bond, etc., different to the amount actually lent to be an offence.
- 37A. Payment of loan in cash to a borrower to be made in the presence of the registering officer.
- 37B. Chapters III and IV not to apply to commercial loans.
38. Penalty for molestation.
39. General provisions regarding penalties.
40. Protection to persons acting under this Act.
41. Power to make rules.
42. Bengal Act VII of 1933 not to apply to loans to which this Act applies.

THE SCHEDULE.

THE BENGAL MONEY-LENDERS BILL, [1938.] 1939.

Embodying amendments recommended by the Select Committee.

[NOTE.—All matter omitted by the Select Committee has been printed in italics and enclosed in square brackets and all new matter inserted has been underlined.]

A .. BILL

further to regulate transactions of money-lending in Bengal.

WHEREAS it is expedient to make further and better provision for the regulation and control of money-lending :

It is hereby enacted as follows :—

CHAPTER I.

Introductory.

Short title,
extent and
commencement.

1. (1) This Act may be called the Bengal Money-lenders Act, [1938.] 1939.

(2) It extends to the whole of Bengal.

(3) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

[(1) “bank” means a banking company as defined in section 277F of the Indian Companies Act, [VII of 1913, whether incorporated in or outside British India;] 1913.]

(1) “borrower” means a person to whom a loan is advanced;

[(2) “Calcutta” includes—

(a) the whole area contained within the boundaries described in Schedule I (as in force at the commencement of this Act) to the Calcutta Municipal Act, 1923;

(b) the Dum Dum, Garden Reach, Howrah, South Suburban and Tollygunge Municipalities as they existed at the commencement of this Act;

[Ben. Act
III of
1923.]

Provided that this definition may be varied from time to time by the Provincial Government by notification under this Act in the Official Gazette;]

(2) “Calcutta” means the area within the limits of the ordinary original civil jurisdiction of the High Court in Calcutta.

(3) “capital” means a sum of money which a money-lender invests in the business of money-lending;

[(4) “company” means a company as defined in the Indian Companies Act, 1913, or formed under the provisions of an Act of Parliament or of the Legislature of a British Dominion or Colony, or by a Royal Charter or Letters Patent;

(5) “co-operative society” means a society registered under the Co-operative Societies Act, 1912, or any Act of the Provincial Legislature, for the time being in force, relating to such societies; [II of 1912.]

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter I.—Introductory.—Clause 2.)

- (6) "insurance company" has the same meaning as in Part III of the Indian Insurance Companies Act, 1928, and "life assurance company" means a company to which the Indian Life Assurance Companies Act, 1912, applies;] [XX of 1928.] [VI of 1912.]
- (7) "interest" includes any sum by whatsoever name called, in excess of the principal paid or payable to a lender in consideration of, or otherwise in respect of, a loan, but does not include any sum lawfully charged by a lender in accordance with the provisions of this Act or any other law for the time being in force for or on account of costs, charges or expenses;
- (8) "lender" means a person who advances a loan and includes a money-lender;
- (9) "licence" means a licence granted under this Act;
- (10) "loan" means an advance, whether of money or in kind, made on condition of repayment with interest and includes any transaction which is in substance a loan but does not include—
- (a) a deposit of money or other property [in a Post Office Savings Bank or with any bank, company or co-operative society];
- (b) a loan to, or by, or a deposit with, any society or association registered under the Societies Registration Act, 1860, or under any other law relating to public, religious or charitable objects; [XXI of 1860.]
- (c) a loan taken or advanced by any Government in British India or by any local authority in Bengal;
- (d) a loan advanced by a bank, co-operative society, insurance company, life assurance company or provident insurance society;]
- (e) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note; [XXVI of 1881.]
- (f) a loan (other than a loan to be used by the borrower for the purposes of agriculture) advanced to be used by the borrower for the purposes of any business or concern relating to trade, commerce, industry, mining, insurance, banking or entertainment, or to the occupation of wharfinger, warehouseman or contractor or any other venture of a mercantile nature, whether as proprietor or agent or guarantor;]
- [Explanation (1).—A bond bearing interest executed in respect of goods taken on credit for the purpose of sale by the borrower falls within sub-clause (f) and is not a loan.
- Explanation (2).—A bond bearing interest executed in respect of goods taken on credit not for the purpose of sale by the borrower is a loan.
- Explanation (3).—A supply of goods on credit with no stipulation as to interest or on contract of hire-purchase is not a loan.]
- (11) "money-lender" means a person who carries on the business of money-lending in Bengal or who has his principal place of such business in Bengal, and includes a pawnee as defined in section 172 of the Indian Contract Act, 1872; [IX of 1872.]
- (12) "money-lending business" and "business of money-lending" mean the business of advancing loans either solely or in conjunction with any other business;

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter I.—Introductory.—Chapter II.—Powers of Courts in Proceedings under this Act.—Clauses 2, 3.)

- (13) "prescribed" means prescribed by rules made under this Act ;
- (14) "principal" means in relation to a loan the amount actually advanced to the borrower ;
- [(15) "proceedings under this Act" means proceedings under section 14 or appeals under sub-section (3) of section 13 ;] ..
- [(16) "provident insurance society" means a society registered under the Provident Insurance Societies Act, 1912 ;] [7 of 1912.]
- (17) "register" means a register of money-lenders maintained under section 7 ;
- (18) "suit" includes an appeal ;
- (19) "suit to which this Act applies" means any suit or proceeding— [Cf. X of 1918, s. 2(3).]
- (a) for the recovery of a loan advanced before or after the commencement of this Act ;
- (b) for the enforcement of any agreement entered into before or after the commencement of this Act, whether by way of settlement of account or otherwise, or of any security so taken, in respect of any loan advanced whether before or after the commencement of this Act ; or
- (c) for the redemption of any security given before or after the commencement of this Act in respect of any loan advanced whether before or after the commencement of this Act.

[CHAPTER II.]

[Powers of Courts in Proceedings under this Act.]

[Competent Courts under this Act.]

[3. Notwithstanding anything contained in any other law, the Courts (hereinafter referred to as Competent Courts) which have jurisdiction to entertain proceedings under this Act and to pass orders therein are—

(a) in Calcutta—

- (i) in such proceedings to which a money-lender who holds a Provincial or first class Calcutta licence is a party, the High Court in its ordinary original jurisdiction ;
- (ii) in such proceedings to which a money-lender who holds a second or third class Calcutta licence is a party, the Court of Small Causes of Calcutta ;

(b) outside Calcutta—

- (i) in such proceedings to which a money-lender who holds a Provincial mufassil or district licence is a party, the Court of a Subordinate Judge of the district ;
- (ii) in such proceedings to which a money-lender who holds a subdivisional or police-station licence is a party, the Court of a munsif empowered in this behalf by the Provincial Government.

Explanation.—In this section the expression "holds" includes the expressions "held", "should hold" or "should have held" in relation to the money-lender's business of money-lending.

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter II.—Powers of Courts in Proceedings under this Act.—Chapter III.—Registration and Licensing of Money-lenders.—Clauses 4—6.)

[*Procedure in
Competent
Courts.*]

4. (1) *Subject to the provisions of this Act, a Competent Court shall, in proceedings under this Act, have the same powers and shall follow the same procedure as it has and follows in civil suits.*

(2) *Every order made by the High Court as a Competent Court under this Act shall be subject to appeal in the same way and be subject to the same provisions as an appeal made by in its ordinary civil jurisdiction, and every order made by any other Competent Court under this Act shall be subject to appeal in accordance with the provisions of the Code of Civil Procedure, 1908, applicable to appeals.* [Act V of 1908.]

CHAPTER II.

Powers of Courts in Proceedings under this Act.

Competent
Courts under
this Act.

3. Notwithstanding anything contained in any other law, the Courts (hereinafter referred to as Competent Courts) which have jurisdiction to entertain proceedings under section 14 and to pass orders therein are the Courts hereinafter specified, within the local limits of whose jurisdiction, the money-lender actually and voluntarily resides or carries on the business of money-lending—

(a) in Calcutta the Court of Small Causes of Calcutta ;

(b) outside Calcutta the Court of the District Judge (hereinafter called a " District Court ") and any Court to which he may transfer the proceedings.

Procedure in
Competent
Courts.

4. (1) Subject to the provisions of this Act, a Competent Court shall, in proceedings under section 14 have the same powers and shall follow the same procedure as it has and follows in civil suits and the provisions of section 24 of the Code of Civil Procedure, 1908, shall apply to such proceedings. Act V of 1908.

(2) Every order made by a Competent Court under this Act shall be subject to appeal in accordance with the provisions of the Code of Civil Procedure, 1908, applicable to appeals.

(3) An appeal from a decision made by the Court of Small Causes of Calcutta under this Act shall lie to the High Court as if it were an appeal under sub-section (2) to the High Court from a decision made by a District Court.

CHAPTER III.

Registration and Licensing of Money-lenders.

[*Definition.*]

5. *In this chapter the expression " year " means a year beginning on such date as the Provincial Government shall, by notification in the Official Gazette, appoint in this behalf.*

[*Appointment
of Provincial
and other
Registrars.*]

6. *The Provincial Government may appoint a Provincial Registrar and Registrars of Money-lenders (hereinafter referred to as Registrars) for the purposes of this Act, and may define, by notification, the area within which each shall exercise his powers and perform his duties, and may prescribe the control, if any, which a Registrar of a particular area shall exercise over the Registrar of another area.]*

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter III.—Registration and Licensing of Money-lenders.—Clauses 6—9.)

Appointment of Provincial and other Registrars.

6. There shall be a Provincial Registrar for the purposes of this Act and as many Registrars and Sub-Registrars of money-lenders for assisting the Registrar as the Provincial Government may from time to time determine. The Provincial Government may define, by notification in the *Official Gazette*, the area within which each shall exercise his powers and perform his duties and may prescribe the control, if any, which the Provincial Registrar shall exercise over the Registrars and Sub-Registrars and a Registrar over the Sub-Registrars :

Provided that no person who is not an officer of the Crown in India shall be empowered to act as a Provincial Registrar, Registrar or Sub-Registrar under this Act.

Register of money-lenders.

7. Each Sub-Registrar shall maintain in the prescribed form a register of money-lenders holding licences issued by him. [*for his area.*]

[Money-lending business not to be carried on except under licence.]

8. After such date not less than six months after the commencement of this Act as the Provincial Government shall, by notification in the *Official Gazette*, appoint in this behalf, no money-lender shall carry on the business of money lending except—

- (a) in the area for which he has been granted a licence, and
- (b) in accordance with the terms and conditions of such licence.]

Money-lending business not to be carried on except under licence.

8. After such date not less than six months after the commencement of this Act as the Provincial Government shall, by notification in the *Official Gazette*, appoint in this behalf, no money-lender shall carry on the business of money-lending unless he holds an effective licence issued to himself.

Explanation.—An effective licence for the purposes of this Act comprises a licence issued to a person who is not disqualified for holding a licence.

[Licences.]

9. (1) Licences may be granted for the whole of Bengal (to be called a Provincial licence), for the whole of Bengal excluding Calcutta (to be called a mufassil licence), for Calcutta (to be called a Calcutta licence) or for any specified district, subdivision or police-station (to be called a district, subdivisional or police-station licence, respectively).

(2) There shall be three classes of Calcutta licence, and a first class Calcutta licence shall be granted unless the applicant proves to the satisfaction of the Registrar that the maximum amount of capital invested or intended to be invested in the business of money-lending during the year to which the licence relates is less than ten thousand rupees or five thousand rupees when a second or third class Calcutta licence, respectively, may be granted.

(3) A money-lender may apply—

- (a) for the grant of licenses for more than one area, or
- (b) while holding a licence for a particular area, for the conversion of such licence into a licence for a larger area containing the area for which he holds a licence, or

The Bengal Money-lenders Bill, [1938.] 1939.

*(Chapter III.—Registration and Licensing of Money-lenders.—
Clauses 9—11.)*

(c) *while holding a Calcutta licence of one class, for the conversion of such licence into a Calcutta licence of higher class.*

(4) *All licences shall be issued annually and a licence shall be valid only for the year or portion thereof in respect of which it has been issued.*

(5) *For the purposes of this Act, subject to the provisions of clause (2) of section 2,—*

(a) *“district” means the local area under the jurisdiction of a District Magistrate, and*

(b) *“subdivision” and “police-station” shall have the meanings assigned to them in the Code of Criminal Procedure, 1898,*

and, until varied by the Provincial Government by notification under this Act, the limits of all districts, subdivisions and police-stations shall, subject as aforesaid, be such as existed at the commencement of this Act.]

Licences.

34 years

9. (1) A licence shall be valid throughout the whole of Bengal for a period of three years from the date of its issue or until it is cancelled.

(2) On the expiration of the period for which the licence was granted or on the cancellation of a licence it shall be returned by the money-lender to the Sub-Registrar who issued it.

Licence fee.

9A. There shall be paid to the Provincial Government a fee of fifteen rupees for a licence issued under this Act:

Provided that the Provincial Government may, by notification in the Official Gazette, remit any part of such fee either generally or for any particular class of money-lenders.

[Application for licences.]

[10. An application for the grant or conversion of a licence shall be made in the prescribed form and manner to the Registrar of the area within the limits of which the business of money-lending is intended to be carried on, and shall contain such particulars as may be prescribed:

Provided that in the case of an application for a first grant of a licence, a date before which such application shall be made may be prescribed.

[Entry in register and grant of licences.]

11. (1) On the receipt of an application under section 10 and on payment in the prescribed manner of the licence duty specified in the schedule, the Registrar may, subject to the provisions of section 13 and after making such summary inquiry as he deems necessary, enter the name of the applicant in the register for the year and grant the applicant a licence in such form and subject to such conditions as may be prescribed.

(2) The provisions of sub-section (1) shall apply to the case of a money-lender required under sub-section (2) of section 12 to produce a licence:

Provided that—

(a) *the money-lender shall also pay all arrears of licence duty and penalty, if any, directed by the Court to be paid, and*

(b) *the Registrar may enter the name of the applicant in the register, and grant him a licence for the year or years in respect of which he has been required to produce a licence.*

The Bengal Money-lenders Bill, [1938.] 1939.

*(Chapter III.—Registration and Licensing of Money-lenders.
—Clause 12.)*

(3) (i) If at any time during a year for which a licence has been granted, a Registrar has reason to believe—

- (a) that a money-lender has engaged in the business of money-lending in any area for which he has not been granted a licence, or*
- (b) in respect of a money-lender to whom a second or third class Calcutta licence has been granted, that such money-lender has invested more than ten thousand rupees or five thousand rupees respectively during the year,*

he may, after summary inquiry, determine the amount or additional amount, if any, of licence duty which the money-lender is liable, in accordance with the rates specified in the schedule, to pay and may recover the same from the money-lender together with such penalty as he thinks fit, not exceeding three times the amount of licence duty found to be payable :

Provided that if the Registrar has reason to believe that the money-lender has been engaged in the business of money-lending in an area for which he is not competent to grant a licence, he shall forward the case to the prescribed Registrar who shall deal with the case in the manner provided in this sub-section.

(ii) When the sums payable under clause (i) have been paid, the Registrar may, unless he has reasons for passing an order under section 13, enter the name of the money-lender in the appropriate register and grant the money-lender a licence, or in cases referred to in sub-clause (b) of clause (i), correct the register and convert the licence.

(4) For the purpose of inquiries under this section and under sub-section (2) of section 9, a Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of—

*[Act V of
1908.]*

- (a) enforcing the attendance of any person and examining him on oath ;*
- (b) compelling the production of documents, including books of account ;*
- (c) issuing commissions for the examination of witnesses ;
and*
- (d) proof of facts by affidavits.*

*[Stay of suit
when money-
lender does
not hold
licence.]*

12. (1) No Court shall pass a decree or order in favour of a money-lender in any suit to which this Act applies and which has been instituted by a money-lender, unless the Court is satisfied that at the time or times when the loan or any part thereof to which the suit relates was advanced, the money-lender held, if so required by this Act, a licence for the appropriate area which was not suspended or cancelled or which had not expired.

(2) If during the trial of a suit to which this Act applies, the Court finds that the money-lender had not held such licence, the Court may, on the application of the money-lender, stay the hearing of the suit and require the money-lender within three months or within such further period as the Court may from time to time see fit to grant to produce a licence on payment to the Registrar of all arrears of licence duty payable by him in accordance with the rates specified in the schedule for the years commencing with the year during which he began his money-lending business or with the date notified under section 8, whichever is later, during which he has continued money-lending business, together with such penalty as the Court thinks fit, not exceeding three times the amount of the said arrears of licence duty.

(Chapter III.—Registration and Licensing of Money-lenders
—Clauses 13, 14.)

(3) If the money-lender fails to produce the licence within the period allowed under sub-section (2), the Court shall dismiss the suit and inform in the prescribed manner the Registrar of the appropriate area: if the money-lender produces the licence within such period, the Court shall proceed to hear the suit.

(4) The provisions of this section shall apply to a claim for a set off by or on behalf of a money-lender.

(5) In this section and in sub-section (2) of section 11, the expression "money-lender" includes an assignee of a money-lender, if the Court is satisfied that the assignment was made for the purposes of avoiding the payment of licence duty and penalty which may be ordered to be paid under this section, provided that in lieu of a licence such assignee shall be required to produce a receipt of payment issued by the Registrar of all arrears of licence duty and penalty, if any, ordered to be paid under this section, and the Registrar shall, under sub-section (2) of section 11, grant to such assignee a receipt of payment in lieu of the licence referred to therein.

[Refusal to
grant licence.]

13. (1) The grant or conversion of a licence shall not be refused except on one or more of the following grounds, namely:—

(a) that the applicant or any person responsible or proposed to be responsible for the management of the applicant's money-lending business is by order of a Court under this Act disqualified for holding a licence;

(b) that the applicant has not complied with the provisions of this Act or of the rules made thereunder in respect of an application for the grant of a licence;

(c) that the applicant has made wilful default in complying with, or knowingly acted in contravention of any requirement of this Act or of the rules made thereunder or of the conditions of a previous licence;

(d) that the applicant or any person responsible or proposed to be responsible for the management of the applicant's money-lending business has been convicted of an offence under Chapter XVII or sections 465, 477 or 477A of the Indian Penal Code, provided that, having regard to the time which has elapsed since the conviction and the nature of the offence, the Provincial Government may, on application in the prescribed form accompanied by the prescribed fee, exempt any person from the operation of this ground, and on such exemption being granted in respect of any conviction, such conviction shall not be a ground under this section in any future application for the grant of a licence. [Act XLV of 1860.]

(2) The Registrar refusing a licence under sub-section (1) shall record or cause to be recorded at his dictation a summary of the evidence adduced before him and his reasons for such refusal.

(3) An appeal shall lie from the order of the Registrar refusing a licence to the Competent Court.

[Application for
cancellation of
licence.]

14. (1) Any person may, on depositing by way of security for such compensation as may be payable under sub-section (2), the sum of fifty rupees, or if such person be a borrower from the money-lender, such sum or two-and-a-half per centum of the principal of his loan, whichever is less, make an application to the Competent Court for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act, conduct or omission

The Bengal Money-lenders Bill, [1938.] 1939.

*(Chapter III.—Registration and Licensing of Money-lenders.—
Clause 15.)*

for which the Registrar may under section 13 refuse the grant of a licence, and on the receipt of such application, the said Court shall hold such inquiry as it deems necessary.

(2) Such Court may direct that any person making an application under this section which is frivolous or vexatious shall pay to the money-lender against whom such application has been made compensation of such amount as the Court considers equitable.

[Court's power to cancel or suspend a licence.]

15. (1) A Competent Court in a proceeding under this Act or a Court trying a suit to which this Act applies or a Court passing an order of conviction upon a money-lender for an offence under this Act, if satisfied that the money-lender has committed such contravention of the provisions of this Act or of the rules made thereunder as, in its opinion, makes him unfit to carry on the business of money-lending—

- (a) may order all licences held by such money-lender to be suspended for such period as the Court may think fit, or to be cancelled,*
- (b) may also declare such money-lender or any person responsible for the management of his money-lending business or both disqualified from holding a licence of any description for such period as the Court may think fit, and*
- (c) shall cause the particulars of the conviction, if any, and of any order passed by the Court under this sub-section to be endorsed on the licence or licences held by the money-lender or by any other person affected by such order :*

Provided that where the licences held by a money-lender are suspended or cancelled or a money-lender is disqualified from holding a licence under this sub-section, he may appeal against such order to the Court to which an appeal ordinarily lies from the decision of the Court passing the order ; and the Court which passed the order or the Court of appeal may, if it thinks fit, stay the operation of the order under this sub-section pending the disposal of the appeal :

Provided further that where the Court of appeal sets aside or varies an order passed under this sub-section, it shall order that any endorsements made in pursuance thereof upon a licence held by a money-lender shall be erased or modified.

(2) The substance of any order passed under sub-section (1) or the provisos thereto shall be sent forthwith in the prescribed form by the Court passing the order to the Provincial Registrar and to the Registrar by whom the licence affected was granted for entry in the register and for such circulation to other Registrars as may be prescribed.

(3) Any licence required by a Court for endorsement under sub-section (1) shall be produced in such manner and at such time as the Court may direct by the person by whom it is held, and any person who without reasonable cause makes default herein shall be liable on conviction to a fine not exceeding fifty rupees for each day of the period during which the default continues.

(4) Powers conferred on a Court under sub-section (1) may be exercised by a Court in appeal or in revision.

(5) The Provincial Government may at any time, on application in the prescribed form accompanied by the prescribed fee, remove a disqualification declared under this section or otherwise modify such declaration, having regard to the time which has elapsed since the declaration and the circumstances under which it was made.]

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter III.—Registration and Licensing of Money-lenders.—
Clauses 10—12A.)

Application for
licences.

10. An application for the grant of a licence shall be
made in the prescribed form and manner to the Sub-Registrar
within the local limits of whose jurisdiction the money-
lender has his principal place of money-lending business
and shall contain such particulars as may be prescribed.

Entry in register
and grant of
licences.

11. On the receipt of an application under section
10 and on payment in the prescribed manner of the licence
fee specified in section 9A, the Sub-Registrar shall, subject
to the provisions of section 13, enter the name of the appli-
cant in the register and grant the applicant a licence in such
form as may be prescribed.

Stay of suit
when money-
lender does
not hold
licence.

12. (1) No Court shall pass a decree or order in favour
of a money-lender in any suit to which this Act applies
and which has been instituted by a money-lender, unless the
Court is satisfied that at the time or times when the loan or
any part thereof to which the suit relates was advanced, the
money-lender held, if so required by this Act, an effective
licence.

(2) If during the trial of a suit to which this Act applies,
the Court finds that the money-lender had not held such
licence, the Court shall before proceeding with the suit re-
quire the money-lender to pay in the prescribed manner and
within the period to be fixed by the Court such penalty as
the Court thinks fit, not exceeding three times the amount of
the licence fee specified in section 9A.

(3) If the money-lender fails to pay the penalty within
the period fixed under sub-section (2), the Court shall dismiss
the suit: if the money-lender pays the penalty within such
period, the Court shall proceed to hear the suit.

(4) The provisions of this section shall apply to a claim
for a set off by or on behalf of a money-lender.

(5) In this section, the expression "money-lender" in-
cludes an assignee of a money-lender, if the Court is satisfied
that the assignment was made for the purposes of avoiding
the payment of licence fee and penalty which may be ordered
to be paid under this section.

Disqualification
of persons for
holding a
licence.

12A. (1) A person shall be disqualified for holding a
licence—

- + (a) if so ordered by a Court under section 15 for the
period ordered;
+ (b) if he has been convicted of any offence specified in the
Schedule to this Act.

(2) The Provincial Government may, at any time, on
application in the prescribed form accompanied by the
prescribed fee, remove a disqualification referred to in sub-
section (1), having regard to the time which has elapsed
since the order and the circumstances under which it was
made or to the time which has elapsed since the conviction
and to the nature of the offence.

The Bengal Money-lenders Bill, [1938.] 1939.

*(Chapter III.—Registration and Licensing of Money-lenders.—
Clauses 12B, 13.)*

Proof of
conviction or
order for
disqualification.

12B. Where it is required to be proved for the purposes of this Act that any person has been convicted of an offence specified in the schedule to this Act or has been disqualified by an order of a Court for holding a licence such conviction or order may be proved, in addition to any other mode provided by any law for the time being in force—

[Cf. Act V
1898,
s. 511.]

(a) by an extract certified under the signature of the officer having the custody of the records of the Court in which such conviction was had, or such orders were passed, to be a copy of the sentence or order, or

(b) in the case of a conviction, by a certificate signed by the officer in charge of the jail, in which the punishment or any part thereof was inflicted, or by the production of the warrant of commitment under which the punishment was suffered,

together with, in each of such cases, evidence as to the identity of the person so convicted or in respect of whom such order was passed.

Refusal to
grant licence.

13. (1) The grant of a licence shall not be refused except on one or more of the following grounds, namely:—

(a) that the applicant has not complied with the provisions of this Act or of the rules made thereunder in respect of an application for the grant of a licence;

(b) that the applicant or any person responsible or proposed to be responsible for the management of the applicant's money-lending business is by order of a Court under this Act disqualified for holding a licence.

(2) A Sub-Registrar refusing a licence—

(i) under clause (a) of sub-section (1) shall record his reasons for such refusal;

(ii) under clause (b) of sub-section (1) shall record the evidence of the disqualification.

(3) An appeal shall lie from the order of the Sub-Registrar refusing a licence to a Registrar authorised under section 6 to hear such appeal.

(4) A Registrar referred to in sub-section (3) may decide in such appeal as to the Sub-Registrar to whom application for a licence shall be made and his decision shall, subject to the provisions of sub-section (5), be final for all purposes, and shall be binding on such Sub-Registrar whether he be under the control of such Registrar or not.

(5) The Provincial Registrar may, on application made within thirty days from the date of the decision of the Registrar under sub-section (4), revise such decision.

(6) The procedure to be followed by the Provincial Registrar or by a Registrar in proceedings under this section shall be in accordance with rules prescribed under this Act.

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter III.—Registration and Licensing of Money-lenders.—
(Clauses 13A—15.)

Cancellation of
licence by a
Sub-Registrar.

13A. Any Sub-Registrar may cancel a licence entered
in the register maintained by him if it is proved that the
money-lender to whom it was issued was disqualified for
holding a licence at the time when such licence was issued ;
and thereupon the provisions of clause (ii) of sub-section
(2) and of sub-section (3) of section 13 shall apply.

Power to
Registrar and
Sub-Registrar
to examine
any person
on oath.

13B. For the purposes of an inquiry under this Act
relating to a disqualification for holding a licence a Regis-
trar or a Sub-Registrar shall have and may exercise the
same powers as are vested in a Civil Court under the Code
of Civil Procedure, 1908, in respect of enforcing the atten-
dance of any person and examining him on oath.

Act V of
1908.

✓ Application for
cancellation of
licence.

14. Any person may make an application to the Com-
petent Court for an order under section 15 on the ground that
such money-lender has committed such contravention of the
provisions of this Act or the rules made thereunder as render
him unfit to carry on the business of money-lending, and
on receipt of such application, the said Court shall hold such
inquiry as it deems necessary.

Court's power
to cancel
a licence.

15. (1) A Competent Court on an application under sec-
tion 14 or a Court trying a suit to which this Act applies or
a Court passing an order of conviction upon a money-lender
for an offence under section 39, if satisfied that the money-
lender has committed such contravention of the provisions
of this Act or of the rules made thereunder as, in its opinion,
makes him unfit to carry on the business of money-lending—

(a) shall cause the particulars of the conviction, if any,
and of any order passed by the Court under this
sub-section to be endorsed on the licence held by
the money-lender or by any other person affected
by such order ; and.

(b) may declare such money-lender or any person
responsible for the management of his money-
lending business or both disqualified for holding
a licence for such period as the Court may think
fit and shall cancel and impound the licence held
by the money-lender :

Provided that except in the case of an order passed by
a District Court, or by the Court of an Additional
District Judge or by the Court of Small Causes of
Calcutta the period of disqualification shall not
exceed one year.

one year
1938

(1a) If a Court other than a District Court, or the
Court of an Additional District Judge or the Court of Small
Causes of Calcutta is of opinion that a period of disqualifica-
tion longer than one year should be imposed, it shall record
its opinion and forward the proceedings to the District Court
having jurisdiction in the place where such Court is held.

(1b) The District Court to which such proceedings are
submitted may, if it thinks fit, examine the parties and
recall and examine any person who has already given evidence

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter III.—Registration and Licensing of Money-lenders.—
Clauses 16—19.)

in the case, and may call for and take any further evidence,
and shall pass such order in the case as it thinks fit in accord-
ance with the provisions of sub-section (1).

(1c) Any person aggrieved by the decision of a Court
under this section may appeal against such order, in the case of
the Court of Small Causes of Calcutta to the High Court and
in the case of any other Court to the Court to which an appeal
ordinarily lies from the decision of the Court passing the
order; and the Court which passed the order or the Court of
appeal may, if it thinks fit, stay the operation of the order
under this sub-section pending the disposal of the appeal:

Provided that where the Court of appeal sets aside or
varies an order passed under this sub-section, it shall order
that any endorsements made in pursuance thereof upon a
licence held by a money-lender shall be erased or modified.

(2) The substance of any order passed under sub-section
(1), sub-section (1b) or sub-section (1c) shall be sent forthwith
in the prescribed form by the Court passing the order to the
Provincial Registrar and also together with the cancelled
licence to the Sub-Registrar who maintains the register in
which the licence affected has been entered for entry in the
said register and for such circulation of the substance of the
said order to other Registrars as may be prescribed.

(3) Any licence required by a Court for endorsement under
sub-section (1) shall be produced in such manner and at such
time as the Court may direct by the person by whom it is
held, and any person who without reasonable cause makes
default herein shall be liable on conviction to a fine not
exceeding fifty rupees for each day of the period during which
the default continues.

(4) Powers conferred on a Court under sub-section (1)
may be exercised by a Court in appeal or in revision.

No compensation
for cancellation
[or suspension]
of licence.

16. A person whose licence has been cancelled [or suspended] shall not be entitled to any compensation on such account nor to the refund of any licence [duty] fee paid in respect of such licence.

[Disqualification
of person whose
licence has
been suspended
or cancelled.]

17. A person shall be disqualified for holding a licence of any description—

- (a) if his licence has been cancelled, for the remainder of the year to which the cancelled licence relates,
or
(b) if his licence has been suspended, during the period of such suspension.]

Licence [duty]
fees and penalties
recoverable
as public
demands.

18. All licence [duty] fees [including all arrears of such duty] and all penalties imposed under this Act shall be recoverable as public demands.

Offences in
respect of
licences.

19. (1) Whoever being disqualified for holding a licence, applies for or obtains a licence during the pendency of such disqualification, without disclosing the fact thereof, shall be punishable, on conviction, with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both, and any licence so obtained shall be of no effect.

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter III.—Registration and Licensing of Money-lenders.

—Chapter IV.—Regulation of Accounts of Money-lenders

—Clauses 20, 21.)

(2) Whoever obliterates or causes to be obliterated or attempts to obliterate an endorsement entered on a licence under this Act shall be punishable, on conviction, with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.

CHAPTER IV.

Regulation of Accounts of Money-lenders.

Duty of money-lender to keep accounts.

20. (1) Every money-lender shall keep and maintain at least a cash book, *[and] a ledger and a receipt book in such form or forms as may be prescribed and shall write the same in Bengali in the regular course of business.*

(2) Every money-lender shall—

- (a) deliver to the borrower *[within a reasonable time after]* at the time a loan is advanced a statement in Bengali in such form as may be prescribed and *[in the language in which he keeps his accounts]* showing clearly and distinctly such details of the conditions of the loan and such other information connected therewith as may be prescribed ;
- (b) give to the borrower a plain and complete receipt for every payment made on account of any loan *[within seven days of the date]* at the time of such payment ;
- (c) upon repayment in full of a loan mark indelibly with words indicating full payment or cancellation every paper signed by the borrower, and discharge any mortgage, restore any pledge, return any note and cancel any assignment given by the borrower as security.

Money-lenders to furnish statements of accounts.

21. (1) Every money-lender shall, within two months of the commencement of each year, furnish each of his borrowers with a legible statement of accounts in Bengali signed by him or his agent of the amount outstanding against the borrower : such statement shall be made out in the prescribed form *[and in the language in which the accounts of the money-lender are ordinarily kept]* and shall show—

- (a) the amounts of principal and interest due to the money-lender at the commencement of the year;
- (aa) the amounts of any sums advanced to the borrower from time to time since the commencement of the year and the dates on which they were advanced ;
- (b) the amounts of any payments received from the borrower since the commencement of the year in respect of loans outstanding and the dates on which they were made ;
- (c) the amount of every sum due from the borrower remaining unpaid and the date on which each such sum became due and the amount of interest accrued due and unpaid in respect of every such sum ; and
- (d) the amount of every sum not yet due which remains outstanding and the date upon which each such sum will become due.

The Bengal Money-lenders Bill, [1938.] 1939.

*(Chapter IV.—Regulation of Accounts of Money-lenders.—
Clauses 22, 23.)*

(2) In respect of any particular loan, whether advanced before or after the commencement of this Act, a money-lender shall, on *[any reasonable]* demand being made in writing by the borrower at any time while the loan or any portion thereof remains outstanding, *[and on payment of the prescribed fee]* supply to the borrower or to any person specified in that behalf in the demand, a statement in Bengali signed by the money-lender or his agent and showing in the prescribed form any or all of the particulars specified in subsection (1) : *[such statement shall be supplied in the language in which the accounts of the money-lender are ordinarily kept, and on payment by the borrower of the additional fee prescribed, shall be accompanied by a translation of such statement in English or in such vernacular language as the borrower ordinarily uses.]*

Provided that the money-lender shall not be bound to comply with such demand if he has complied with a demand made not more than three months prior to the date thereof.

(3) A money-lender shall, on a demand in writing by the borrower, *[and on payment of the prescribed fee]* supply to the borrower or to any person specified in that behalf in the demand a copy of any document *[relating to]* evidencing an agreement to secure repayment of a loan advanced to the borrower : [or to any security therefor.]

Provided that a money-lender shall not be bound to comply with such a demand if he has previously furnished the borrower with such copy except on payment of such fee as may be prescribed.

(4) In this section the expression " year " means the [year for which the accounts of the money-lender are ordinarily maintained in his own books.] Bengali year commencing on the first day of Baisakh.

Borrower not bound by money-lender's statement of accounts.

22. A borrower to whom a statement of accounts has been furnished under section 21 shall not be bound to acknowledge or deny its correctness, and his failure to do so shall not, by itself, be deemed to be an admission of the correctness of the account.

Procedure in suits relating to loans by money-lenders.

23. Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies—

(a) a Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of sections 20 and 21 ; and

(b) if the Court finds that the provisions of either of the said sections have not been so complied with, it may, if the plaintiff's claim is established either wholly or in part, disallow the whole or any portion of the interest found due as may, in the circumstances of the case, appear reasonable to the Court, and may also disallow costs, or in computing the amount of interest due upon the loan, the Court may exclude any period for which the money-lender omitted to comply with the provisions of either of the said sections :

Provided that if the money-lender has, after the time specified in the said sections, given the receipt or furnished the statement, as the case may be, and if he satisfies the Court that he had sufficient cause for not doing so earlier, the Court may include any such period in computing the interest.

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter IV.—Regulation of Accounts of Money-lenders.—
Chapter V.—Other Provisions relating to Money-lenders.—Clauses 24—26.)

Explanation.—A money-lender who has given a receipt or furnished a statement in the prescribed form [and manner] shall be held to have complied with the provisions of section 20 or section 21, as the case may be, in spite of any errors and omissions in such receipt or statement if the Court finds that such errors and omissions are neither material nor made fraudulently.

[This Chapter not to apply to banks, companies, etc.]

[24. Nothing in this Chapter shall apply to a company, and the Provincial Government may, by notification in the Official Gazette, exempt from the operation of this Chapter any other body, corporate or incorporate.]

CHAPTER V.

[Other Provisions relating to Money-lenders.] Assignment of loans.

Notice and information to be given on assignment of loans by [money-] lenders.

25. (1) Where any debt in respect of—

(Cf. 17 and 18 Geo. V, c. 21, s. 16.)

- (i) money advanced by a [money] lender, whether before or after the commencement of this Act, or
- (ii) interest on any such debt, or
- (iii) the benefit of any agreement made, or security taken, in respect of any such debt or interest—

is assigned to any assignee, the assignor (whether he is the [money] lender by whom the money was advanced or any person to whom the debt has been previously assigned) shall, before the assignment is made,—

- (a) give to the assignee notice in writing that the debt, interest thereon, agreement or security is affected by the operation of this Act, and
- (b) in the case where the debt is in respect of money advanced by a money-lender supply to the assignee all information necessary to enable him to comply with the provisions of this Act relating to the obligation to supply information as to the state of loans and copies of documents relating thereto.

(2) Any person who acts in contravention of any of the provisions of this section shall be liable to indemnify any other person who is prejudiced by the contravention and shall also be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

(3) In this section the expression "assigned" means assigned by an assignment *inter vivos* other than an assignment by operation of law; and the expressions "assignor" and "assignee" have corresponding meanings.

Application of Act as respects assignees.

26. (1) Subject as hereinafter provided, the provisions of this Act shall continue to apply as respects any debt due to a lender or money-lender in respect of loans advanced by him after the commencement of this Act or in respect of interest on such loans or of the benefit of any agreement made or security taken in respect of any such debt or interest, notwithstanding that the debt or the benefit of the agreement or security may have been assigned to any assignee, and except where the context otherwise requires, references in this Act to a lender or money-lender shall accordingly be construed as including any such assignee as aforesaid :

(Cf. 17 and 18 Geo. V, c. 21, s. 17.)

The Bengal Money-lenders Bill, [1938.] 1939.

*(Chapter V.—Other Provisions relating to Money-lenders.—
Clause 27.)*

Provided that, notwithstanding anything contained in this Act except section 12—

(a) any agreement with, or security taken by, a lender or money-lender in respect of a loan advanced by him after the commencement of this Act shall be valid in favour of any *bona fide* assignee or holder for value without notice of any defect due to the operation of this Act and of any person deriving title under him; and

(b) any payment or transfer of money or property made *bona fide* by any person, whether acting in a fiduciary capacity or otherwise on the faith of the validity of any such agreement or security, without notice of any such defect shall, in favour of that person, be as valid as it would have been if the agreement or security had been valid;

but in every such case the lender or money-lender shall be liable to indemnify the borrower or any other person who is prejudiced by virtue of this section, and nothing in this proviso shall render valid an agreement or security in favour of, or apply to proceedings instituted by, an assignee or holder for value who is himself a money-lender.

(2) Nothing in this section shall render valid for any purpose any agreement, security or other transaction which would, apart from the provisions of this Act, have been void or unenforceable.

[Provisions as to insolvency proceedings for loans by money-lenders.]

[27. (1) Where a debt due to a money-lender in respect of a loan advanced by him after the commencement of this Act includes interest, that interest shall, for the purposes of the provisions of the Presidency-towns Insolvency Act, 1909, the Provincial Insolvency Act, 1920 and the Bengal Agricultural Debtors Act, 1935, relating to the presentation of an insolvency petition or application for settlement of debts, to voting at meetings, compositions and schemes of arrangement and dividend and notwithstanding anything to the contrary contained in the said Acts, be calculated at a rate not exceeding five per centum per annum, but nothing in the foregoing provision shall prejudice the right of the money-lender to receive out of the estate, after all the debts proved in the estate have been paid in full, any higher rate of interest to which he may, subject to the principles contained in Chapter VI, be entitled.

[Cf. 17 and 18 Geo. V, c. 21, s. 9.) III of 1909. V of 1920. Ben. Act VII of 1936.]

(2) Notwithstanding anything contained in the above-mentioned Acts, no proof of a debt due to a money-lender shall be admitted for any of the purposes of the said Acts, unless the affidavit verifying the debt is accompanied by a statement showing in detail, in addition to such particulars as the said Acts may require,—

(a) the amount of the sums actually lent to the debtor and the dates on which they were lent, and the amount of every payment already received by the money-lender in respect of the loan and the date on which each such payment was made; and

(b) the amount of the balance which remains unpaid, distinguishing the amount of the principal from the amount of interest; and

(c) where the amount of interest included in the unpaid balance has been calculated at a rate exceeding five per centum per annum, the amount of interest which would be so included if it were calculated at the rate of five per centum per annum.

(3) Rules for the purpose of carrying into effect the objects of this section may be made under section 112 of the Presidency-towns Insolvency Act, 1909, section 79 of the Provincial

[III of 1909. V of 1920. Ben. Act VII of 1936.]

The Bengal Money-lenders Bill, [1933.] 1939.

(Chapter VI.—Interest and other charges.—Clauses 28—30.)

Insolvency Act, 1920, and section 55 of the Bengal Agricultural Debtors Act, 1935, by the authorities respectively specified in those sections.]

CHAPTER VI.

Interest and other charges.

✓
[Limitation as to amount of interest recoverable.]

[28. Notwithstanding anything contained in any law for the time being in force or in any agreement, no Court shall, in any suit in respect of a loan whether such suit was instituted before or after the commencement of this Act, decree on account of arrears of interest a sum greater than the principal of the original loan.

✓
[Limitations as to rate of interest recoverable.]

29. Notwithstanding the provisions contained in the proviso to section 30 or in any other law for the time being in force or in any agreement, no Court shall, in any suit to which this Act applies, decree interest at rates per annum exceeding in the case of—

- (i) unsecured loans in kind, twenty-five per centum,
- (ii) secured loans in kind, fifteen per centum,
- (iii) other unsecured loans, twelve per centum, and
- (iv) other secured loans, nine per centum.]

Limitations as to amount and rate of interest recoverable.

28. Notwithstanding anything contained in any law for the time being in force, or in any agreement,

(1) no borrower shall be liable to pay after the commencement of this Act—

(a) any sum in respect of principal and interest which together with any amount already paid or included in any decree in respect of a loan exceeds twice the principal of the original loan ;

(b) on account of interest, a sum greater than the principal of the loan outstanding on the date up to which such liability is computed ;

(c) interest at a rate per annum exceeding in the case of—

- (i) unsecured loans, ten per centum simple,
- (ii) secured loans, eight per centum simple,

whether such loan was advanced or such amount was paid or such decree was passed or such interest accrued before or after the commencement of this Act ;

(2) no borrower shall after the commencement of this Act, be deemed to have been liable to pay before the date of such commencement in respect of interest paid before such date or included in a decree passed before such date, interest at rates per annum exceeding those specified in sub-clause (c) of clause (1).

Prohibition of interest on decretal amount.

29. Notwithstanding anything contained in any law for the time being in force but subject to the provisions of clause (a) of sub-section (1) of section 33, no Court shall, in any decree passed in any suit to which this Act applies, allow any interest on the decretal amount.

[Prohibition of compound interest and provision as to default.]

[30. Any agreement made after the commencement of this Act for a loan shall be illegal in so far as it provides directly or indirectly for the payment of compound interest :

Provided that provision may be made in any such agreement that if default is made in the payment upon the due date

The Bengal Money-lenders Bill, [1938.] 1939.

*(Chapter VI.—Interest and other charges.—Chapter VII.—
Miscellaneous—Clauses 31—33.)*

of any sum payable to the lender under the agreement, whether in respect of principal or interest or both, the lender shall be entitled to charge simple interest on that sum from the date of default until the sum is paid at a rate not exceeding the rate recoverable in respect of interest on the principal, and any interest so charged shall not be reckoned for the purposes of this Act, save those of section 28, as part of the interest charged in respect of the loan.] ..

Computation
of interest
on loans in
kind. ✓

31. In the case of loans in kind, the money value of the commodity at the time when, and in the locality where, the loan was advanced shall, for the purposes of this Act, be deemed to be the principal of the loan, and in determining the amount [of interest] which may, subject to the provisions of this chapter, be decreed in respect of such a loan, the Court shall take into consideration the market value of the commodity in the said locality at the [due] date or dates of repayment.

Prohibition
of charges
for expenses
on loans. ✓

32. Any agreement between a lender and a borrower or intending borrower for the payment to the lender of any sum on account of costs, charges or expenses incidental or relating to the negotiations for, or the granting of, the loan or proposed loan, shall be illegal, and if any sum is paid to a lender by the borrower or intending borrower as, for or on account of any such costs, charges or expenses, that sum shall be recoverable as a debt due to the borrower or intending borrower, or in the event of the loan being completed, shall, if not so recovered, be set off against the amount actually lent and that amount shall be deemed to be reduced accordingly.

[Cf. 17 and
18 Geo.
V, c. 21,
s. 12.]

[Provided that nothing in this section shall debar a lender from recovering the costs of investigating title, of stamp duty and registration of documents and other usual out-of-pocket expenses in cases where the agreement includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed to such expenditure and the reimbursement thereof, nor from recovering such costs, charges or expenses as are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force.]

[17 of
1882.]

CHAPTER VII.

Miscellaneous.

[Power to
Court to direct
instalments.]

33. (1) Notwithstanding anything contained in any law for the time being in force, the Court may—

(a) at any time, on the application of a judgment-debtor and after notice to the decree-holder, order that the amount of any decree passed against the judgment-debtor, whether before or after the commencement of this Act, in respect of a loan, shall, subject to such conditions as the Court may impose, be payable in such number of instalments and on such dates as the Court thinks fit, having regard to the circumstances of the judgment-debtor and the amount of the decree, and

(b) during the pendency of any inquiry under clause (a), order, subject to such conditions as the Court may impose, the stay of execution of the decree.

[Cf. C. P.
Act XIII
of 1934,
s. 11.]

(2) Any order under this section shall be deemed to have been passed under section 47 of the Code of Civil Procedure, 1908.

[Act V of
1908.]

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter VII.—Miscellaneous.—Clause 33.)

[Reopening of transactions.]

34. (1) Notwithstanding anything contained in any law for the time being in force, the Court may, in any suit to which this Act applies, whether heard *ex parte* or otherwise, exercise any or all of the following powers, namely, may—

- (a) reopen any transaction or any account already taken between the parties ;
- (b) take an account between the parties ;
- (c) release the debtor of all liability in respect of any interest in excess of any of the limits specified in Chapter VI ;
- (d) if anything has been paid or allowed in account in respect of such liability, order the lender to repay any sum which the Court considers to be repayable in respect thereof :

Provided that in the exercise of these powers, the Court shall not do anything which affects any decree of a Court nor reopen any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim, at a date more than three years from the institution of the said suit.

(2) In this section the expression "suit to which this Act applies" includes a proceeding in respect of any application relating to the admission or amount of a proof of a loan advanced after the commencement of this Act in any insolvency proceedings.]

Power of Court to direct payment by instalments.

33. (1) Notwithstanding anything contained in any law for the time being in force, or in any agreement, the Court shall—

- (a) in suits in respect of loans to which the provisions of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908 apply, on the application of the defendant and after hearing the plaintiff, fix, at the time of the passing of the preliminary decree under rule 2 or rule 4 of the said Order to the effect mentioned in sub-clause (i) of clause (c) of sub-rule (1) of the said rule 2, a date within a period not exceeding ten years from the date of such decree for payment of the amount found or declared due under sub-rule (1) of that rule or sub-rule (1) of rule 4 of the said Order, as the case may be, and further direct that the payment of the said amount is to be made, subject to such conditions as the Court may impose, in such number of instalments and on such dates within the date so fixed as the Court thinks fit having regard to the circumstances of the defendant and the amount of the decree and that in default of payment of any of the said instalments that instalment shall carry interest at the rate of three per cent. per annum until realisation ;

Act V of 1908.

- (b) in suits in respect of loans other than those referred to in clause (a)—

- (i) on the application of a defendant and after hearing the plaintiff, order at the time of the passing of the decree, or

Preliminary decree to be made Do. for sale

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter VII.—Miscellaneous—Clause 34.)

(ii) on the application of a judgment-debtor against whom a decree in such suit has been passed whether before or after the commencement of this Act and after notice to the decree-holder, order at any time after the decree has been passed,

that the amount of the decree shall, subject to such conditions as the Court may impose, be payable without interest within a period not exceeding twenty years from the date of the decree in such number of instalments and on such dates as the Court thinks fit, having regard to the circumstances of the defendant or the judgment-debtor and the amount of the decree ;

(c) during the pendency of any inquiry under sub-clause (ii) of clause (b) order, subject to such conditions as the Court may impose, the stay of execution of the decree.

(2) Where an order for payment by instalment has been made under clause (a) of sub-section (1), the Court shall not allow any extension of time under sub-rule (2) of rule 2 of the said Order for the payment of the amount found or declared due under sub-rule (1) of that rule or under sub-rule (2) of rule 4 of the said Order for the payment of the amount found or declared due under sub-rule (1) of that rule, as the case may be.

NO extension of
time (or 34.2
of 4.2)

(3) Where an order for payment by instalments has been made under clause (b) of sub-section (1), then, notwithstanding anything contained in any law for the time being in force, the Court shall further order either at the time of the passing of the decree or thereafter, as the case may be, that if default is made in making payment of any of the instalments ordered, that instalment and not the whole of the decretal amount shall be recoverable under the decree after the date of such default.

(4) Any order made under sub-clause (ii) of clause (b) of sub-section (1) shall be deemed to have been passed under section 47 of the Code of Civil Procedure, 1908.

Act V of
1908.

Re-opening of
transactions.

34. (1) Notwithstanding anything contained in any law for the time being in force, the Court may, in any suit to which this Act applies, whether heard *ex parte* or otherwise, exercise any or all of the following powers, namely, may—

(a) re-open any transaction, take an account between the parties ;

(b) notwithstanding any agreement, purporting to close previous dealings and to create new obligations, re-open any account already taken between the parties ;

(c) release the borrower of all liability in excess of the limits specified in clauses (1) and (2) of section 28 ;

(d) if anything has been paid or allowed in account on or after the 1st day of January 1939 in respect of the liability referred to in clause (c), order the lender to repay any sum which the Court considers to be repayable in respect thereof ;

payments of 1-1-39 to be refunded.

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter VII.—Miscellaneous.—Clauses 34.)

(e) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any loan, and if the lender has parted with the security, order him to indemnify the borrower in such manner and to such extent as it may deem just:

Provided that in the exercise of these powers the Court shall not—

(i) re-open any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim at a date more than twelve years from the date of the transaction;

(ii) do anything which affects any decree of a Court other than a decree passed on or after the 1st January, 1939 and before the commencement of this Act, or which affects an award made under the Bengal Agricultural Debtors Act, 1935.

Ben. Act
VII of
1936.

(2) In this section the expression "suit to which this Act applies" includes a proceeding in respect of any application relating to the admission or amount of a proof of a loan advanced before or after the commencement of this Act in any insolvency proceedings.

(3) This section shall apply to any suit whatever its form may be if such suit is substantially one for the recovery of a loan or for the enforcement of any agreement or security in respect of a loan or for the redemption of any such security.

(4) Nothing in this section shall affect the rights of any assignee or holder for value who satisfies the Court that the assignment to him was bona fide, and that he had not received the notice referred to in clause (a) of sub-section (1) of section 25.

(5) Notwithstanding anything contained in any law for the time being in force,

(a) the Court which passed the decree may, in respect of a decree passed on or after the 1st January 1939 and before the commencement of this Act, in any suit to which this Act applies, exercise the like powers as may be exercised under sub-section (1)—

(i) in any proceedings in execution of such decree, or

(ii) on an application for review of such decree made within one year of the date of commencement of this Act, and the provisions of rules 2 and 5 of Order XLVII of the First Schedule to the Code of Civil Procedure, 1908, shall not apply to any such application;

Act V of
1908.

(b) any Court before which an appeal is pending in respect of a decree referred to in clause (a) may either itself exercise the like powers as may be exercised under sub-section (1), or refer the case to the Court which passed the decree directing such Court to exercise such powers and such

12 years.

Decrees before
1-1-1939 cannot
be reopened.

1-1-1939. Decrees.

proceedings

Review within
one year.

Appeal

The Bengal Money-lenders Bill, [1938,] 1939.

(Chapter VII.—Miscellaneous.—Clauses 34A—36.)

Court shall after exercise thereof return the record with the additional evidence, if any, taken by it and its findings and the reasons therefor to the Appellate Court and thereupon the provisions of rule 26 of Order XLI of the First Schedule to the Code of Civil Procedure, 1908, shall apply.

Prohibition of execution of decrees by arrest and detention in prison.

Inquiry for taking accounts and declaring the amount due.

✓ 34A. Notwithstanding anything contained in any law for the time being in force, no Court shall order execution of a decree passed in any suit to which this Act applies by arrest and detention in prison of the judgment-debtor.

✓ 35. (1) Any borrower may make an application at any time to a Court which would have jurisdiction to entertain a suit by the lender for the recovery of the principal and interest of [the loan,] a loan made before or after the commencement of this Act for taking accounts and for declaring the amount due to the lender. Such application shall be in the prescribed form and shall be accompanied by [the prescribed fee,] a fee of one rupee, and on receipt of such application, the Court shall cause a notice thereof to be served on the lender.

(2) The Court shall thereafter take an account of the transactions between the parties and shall declare the amounts, if any,—

- (a) payable and already due,
- (b) payable but not yet due

by the borrower to the lender, whether as principal or interest or both. In taking accounts under this section the Court shall follow the same procedure as it does in regard to civil suits and, so far as may be, the provisions of Chapters IV, VI and VII.

[(3) *Where any of the principal or interest or both of a loan has been declared under this section to be payable and already due, and the lender not later than one month after the date of the declaration pays the court-fee payable on a plaint in a suit for the recovery of the amount declared due, the Court shall endorse the order of declaration with the statement that such court-fee has been paid, and the order of declaration shall thereupon become executable as a decree of the Court.*]

(4) A proceeding under this section shall be deemed to be a suit for the purposes of section 11 of the Code of Civil Procedure, 1908, and a declaration under this section shall be subject to appeal, if any, as if it were a decree of the Court, and every decision in appeal shall be subject to appeal to the High Court in the same manner as a decree passed in appeal.

Act V of
1908.

Deposit in Court of money due to lender.

✓ 36. (1) Where any sum of money has been declared under sub-section (2) of section 35 to be payable by the borrower to the lender as principal or interest or both or [W] where a borrower has sent to a lender by postal money order any sum of money due from him to the lender in respect of a loan and the lender has refused to accept the same, the borrower may apply in the prescribed manner to the Civil Court of the lowest grade having jurisdiction over the place where he resides for permission to deposit the said sum in Court to the account of the lender, and the Court [on receiving the prescribed fee from the borrower] shall keep the said sum in deposit.

(2) The Court shall thereupon cause notice of the deposit to be served on the lender, and the lender may, on presenting

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter VII.—Miscellaneous.—Clauses 37, 38.)

a petition, verified as for a plaint and [accompanied by the prescribed fee,] stating the sum then due in respect of the loan and his willingness to accept the money so deposited, receive the sum:

Provided that in accepting any sum deposited under this section, a lender shall not be bound by any statement made by the borrower in depositing the same.

(3) Notwithstanding any agreement between the parties [W] when the borrower has deposited in Court under this section any sum due in respect of the loan, if such sum is in payment of the principal or any part thereof, the interest on such principal or part shall [notwithstanding any agreement between the parties,] cease from the date of the service of notice on the lender under sub-section (2).

(4) Nothing in this section shall affect the operation of sections 83 and 84 of the Transfer of Property Act, 1882, in regard to loans to which those sections apply. IV of 1882.

Entry of an amount in a bond, etc., different to the amount actually lent to be an offence.

37. (1) No lender shall take from a borrower or intending borrower any note, promise to pay, power of attorney, bond or security which does not state the actual amount of the loan, the rate of interest charged and the time, if any, within which the principal is stipulated to be repaid in full, or which states any of such particulars incorrectly, nor shall he take from any borrower or intending borrower any instrument in which blanks are left to be filled in at a later date.

(2) Whoever intentionally contravenes the provisions of sub-section (1) shall, on conviction, be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(3) Notwithstanding anything contained in any law for the time being in force, any such note, promise, power of attorney, bond, security or document shall be void and unenforceable.

Payment of loan in cash to a borrower to be made in the presence of the registering officer.

37A. Where a loan is advanced on a document which is registered under the Indian Registration Act, 1908, the loan, or as much of it as may be payable in cash, shall be paid to the borrower or his duly authorised agent in the presence of the registering officer who will register the document and the said registering officer shall make an endorsement to that effect on the document.

Act XVI of 1908.

Chapters III and IV not to apply to commercial loans.

37B. (1) The provisions of Chapters III and IV shall not apply to a commercial loan.

(2) For the purposes of sub-section (1) "commercial loan" means a loan advanced to a person other than an agriculturist to be used by such person for the purposes of any business or concern relating to trade, commerce, industry, mining, insurance, transport, banking or entertainment, or to the occupation of wharfinger, ware-houseman or contractor or any other venture of a mercantile nature, whether as proprietor or principal or agent or guarantor.

Penalty for molestation.

38. (1) Whoever molests, or abets the molestation of, a debtor for the purpose of recovering or attempting to recover, a debt shall be punishable, on conviction, with imprisonment

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter VII.—Miscellaneous.—Clause 39.)

[of either description] which may extend to [three months] one year or with fine which may extend to [five hundred] one thousand rupees or with both.

Explanation.—For the purposes of this section, a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing,—

- (a) obstructs or uses violence to or intimidates such other person, or
- (b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or
- (c) loiters or does any similar act at or near a house, building or place where such other person resides or works or receives his pay or wages or carries on business or happens to be—

shall be deemed to molest such other person :

Provided that a person who attends at or near such house, building or place for the purpose only of making a formal demand for repayment of a loan due or of obtaining or communicating information shall not be deemed to molest.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this section shall be cognisable and bailable.

Act V of 1898.

(3) Nothing in this section shall be deemed to restrict the provisions of the Bengal Workmen's Protection Act, 1934.

Ben. Act IV of 1935.

[General provision regarding penalties.]

39. *Whoever makes default in complying with, or acts in contravention of, any provision of this Act, and if the money-lender is—*

- (a) *an individual, such individual, or*
- (b) *an undivided Hindu family, the manager and all adult coparceners of such family, or*
- (c) *a body corporate, the directors, the manager and all other officers of such body, or*
- (d) *an unincorporated body, all members of such body,*

who is or are a party to such default or contravention, shall, if no specific penalty has been provided in this Act, be punishable—

- (i) *for the first offence, with fine which may extend to two hundred rupees,*
- (ii) *for the second offence, with fine which may extend to five hundred rupees, and*
- (iii) *for any subsequent offence, with rigorous imprisonment which may extend to three months and shall also be liable to fine.]*

General provisions regarding penalties.

39. (1) Whoever makes default in complying with, or acts in contravention of, any provision of this Act, and if the money-lender is—

- (a) an individual, such individual, or
- (b) an undivided Hindu family, the manager, or
- (c) a body corporate, the directors, the manager and all other officers of such body, or
- (d) an unincorporated body, all members of such body,

who knowingly and wilfully makes, authorises or permits such default or contravention, shall, where a specific penalty

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter VII.—Miscellaneous.—Clauses 40, 41.)

has been provided in this Act, be punishable under the provisions of this Act providing such penalty, and where no such specific penalty has been provided, be punishable—

- (i) for the first offence, with fine which may extend to two hundred rupees,
- (ii) for the second offence, with fine which may extend to five hundred rupees, and
- (iii) for any subsequent offence, with rigorous imprisonment which may extend to three months and shall also be liable to fine.

(2) No Court shall take cognizance of an offence punishable under sub-section (1) except on the complaint in writing of the Provincial Registrar or a Registrar.

(3) The Provincial Registrar may order the withdrawal of a complaint made under sub-section (2), and, if he does so, shall forward a copy of such order to the Court, and upon receipt thereof by the Court, no further proceedings shall be taken on the complaint.

(4) No Court inferior to that of a Presidency Magistrate or a Subdivisional Magistrate, or a Magistrate of the first class shall try an offence punishable under sub-section (1).

Protection
to persons
acting under
this Act.

40. No suit, prosecution or proceeding shall lie against any servant of the Crown for anything which is in good faith done or intended to be done under this Act.

Power to make
rules.

41. (1) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for the following matters, namely :—

- (a) the control to be exercised by the Provincial Registrar over [other] the Registrars and Sub-Registrars and by a Registrar[s] [of particular areas over Registrars of other areas] over the Sub-Registrars ;
- (b) the form in which registers under section [6] 7 shall be maintained ;
- (c) the form and manner in which an application for the grant [or conversion] of a licence shall be made, and the particulars to be therein contained ;
- [(d) the date before which an application for a first grant of licence shall be made ;]
- (e) the manner in which licence [duty] fees and penalties shall be paid ;
- (f) the form [and conditions] of licences ;
- (g) the Registrar to whom cases shall be forwarded under the proviso to clause (i) of sub-section (3) of section 11 ;
- (h) the form of, and the fee payable on, an application [under the proviso to clause (d) of sub-section (1) of section 13 or] under sub-section [(5)] (2) of section [15] 12A ;

(hh) the procedure to be followed by the Provincial Registrar in proceedings under section 13 ;

[(i) the form and manner in which a Court shall communicate information under sub-section (3) of section 12 or sub-section (2) of section 15 ;]

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter VII.—Miscellaneous.—Clause 42—The Schedule.)

- (i) the form in which a Court shall send the substance of the order referred to in sub-section (2) of section 15, and the method of circulation of the same to other Registrars ;*
- (j) the form in which a money-lender shall maintain his cash book, [and] ledger and receipt book ;*
- (k) the form of, and the particulars to be contained in the statement to be delivered under sub-section (2) of section 20 ;*
- (l) the form of the statements to be furnished under section 21 and the fee[s] to be paid under the proviso to sub-section[s] [(2) and] (3) of that section ;*
- (m) the form of [and the fee payable on] an application under section 35 ; and*
- (n) the manner in which an application under section 36 shall be made. [and the fees payable under sub-sections (1) and (2) of that section.]*

[(3) Rules made under this section shall be subject to the condition of previous publication in the Official Gazette.]

Bengal Act VII of 1933 not to apply to loans to which this Act applies.

42. The Bengal Money-lenders Act, 1933, shall not apply to any loan to which this Act applies nor to any transaction connected with such loan.

THE SCHEDULE.

[(See sections 9, 11 and 12.)]

<i>[Designation of licence.</i>	<i>Amount of licence duty payable.</i>
<i>Police-station ..</i>	<i>.. Two rupees.</i>
<i>Subdivisional ..</i>	<i>.. One rupee and eight annas multiplied by the number of police-stations in the sub-division.</i>
<i>District ..</i>	<i>.. One rupee multiplied by the number of police-stations in the district.</i>
<i>Mufassil ..</i>	<i>.. One hundred rupees.</i>
<i>Calcutta, first class ..</i>	<i>.. Seventy-five rupees.</i>
<i>Calcutta, second class ..</i>	<i>.. Twenty-five rupees.</i>
<i>Calcutta, third class ..</i>	<i>.. Ten rupees.</i>
<i>Provincial ..</i>	<i>.. One hundred and fifty rupees.</i>
<i>Conversion of licence ..</i>	<i>.. The difference between the duty payable on the licence held and on that into which it is sought to be converted plus one rupee.]</i>

[See sections 12A (1) (b) and 12B.]

Any offence punishable under any of the following sections of the Indian Penal Code, namely, sections 379 to 382, 384 to 389, 392 to 404, 406 to 409, 411 to 414, 417 to 424, 449, 450, 451 (with intent to commit theft), 454 (with intent to commit theft), 455, 457 (with intent to commit theft), 458 to 462, 465, 477 and 477A.

Registered No. C207

gulfiah



8

The Calcutta Gazette

THURSDAY, MARCH 2, 1939.

PART IVA

Bills introduced in the Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

**BENGAL LEGISLATIVE ASSEMBLY
DEPARTMENT.**

NOTIFICATION.

No. 849L.A.—22nd February 1939.—The following report of the Select Committee on the Bengal Money-Lenders Bill, 1938, with the Bill embodying amendments recommended by the Committee, is hereby published for general information.

X63: (2262). N38 E

69

Report of the Select Committee on the Bengal Money-Lenders Bill, 1938.

We, the members of the Select Committee to which the Bengal Money-Lenders Bill, 1938, was referred by a motion carried in the Bengal Legislative Assembly on the 5th August, 1938, have the honour to submit this our final report with the Bill embodying amendments recommended by us annexed. Matters recommended by us to be omitted have been printed in italics and enclosed in square brackets and all new matters recommended to be inserted have been underlined.

2. The Bill was published before introduction in an extraordinary issue of the *Calcutta Gazette*, dated the 18th July, 1938.

3. The Committee met for the first time on the 11th August, 1938, and continued their sittings till the 13th August, 1938. But as the deliberations could not be finished by the 15th August, 1938, the date appointed in this behalf by the Assembly, the Chairman of the Committee presented an *interim* report to the House on the said 15th August, 1938, and on the requisition of the Committee the time for submission of the final report was extended by the Assembly till the 31st October, 1938. The Committee could not, however, finish their deliberations even within this extended period and continued their sittings till the 21st December, 1938, with the special permission of the Hon'ble Speaker.

4. The Bill has been substantially altered by our recommendation and we consider that it requires republication.

5. The changes made in the Bill, apart from mere formal and technical alterations, are as follows:—

CHAPTER I.

Clause 2—Sub-clauses (1), (4), (5), (6), (15), (16).—We have omitted the definitions of "Bank", "Company", "Co-operative Society", "Insurance Company", "Proceedings under this Act", "Provident Insurance Society" as we consider these unnecessary in view of alterations suggested by us in the body of the Bill.

We have considered it desirable to insert a definition of "borrower" in sub-clause (1) as this term occurs frequently in the Bill.

Sub-clause (2).—We have revised this, in consonance with the subsequent recommendations in the Bill.

Sub-clause (10).—We have modified the definition of "loan" by excluding advances without interest as we do not consider it desirable to treat such advances as "loan" for the purposes of this Act.

Sub-clause (10)(a).—In modifying this we intended to exclude all kinds of deposits of money or other property, not only in Post Office Savings Banks or with any Banking Company or Co-operative Society but at any place whatsoever, from the category of loan.

Sub-clause (10)(d) and (f).—We have omitted these as we did not consider it advisable to exclude loans to or by Banks, etc., or mercantile loans from the purview of this Act. Our intention in making this amendment was also to control the Banks and mercantile loans and restrict flow of money from rural areas to Banking concerns and mercantile centres.

The explanations under this sub-clause have been omitted as unnecessary.

Sub-clause (19)(a).—The alterations here are consequential on our subsequent recommendation in the Bill.

CHAPTER II.

We found it desirable to have this chapter redrafted on account of material and extensive changes recommended by us. Our recommendation for elimination of different classes of licences for money-lenders as contemplated in the original Bill has necessitated a revised definition of Competent

Courts. We have thought it preferable to let the Court of Small Causes, Calcutta, have original jurisdiction over proceedings under clause 14 of this Bill in relation to cases arising in Calcutta and have provided for appeal from its decisions to the High Court. The District Judge's was considered by us to be the most suitable Court for cases arising outside Calcutta either for disposal by itself or for transferring them to suitable subordinate courts for such disposal. We have provided for appeal from decisions of the Mufassil Courts in accordance with the provisions of the Civil Procedure Code. We have also extended the application of section 24 of the Code of Civil Procedure for cases coming under this Act.

CHAPTER III.

This chapter has, for similar reasons, been redrafted and the following alterations have been made in the clauses:—

Clause 5 has been omitted as unnecessary.

Clause 6 has been expanded and we have found it desirable to provide for appointment of Sub-Registrars of money-lenders in addition to the Provincial Registrar and Registrars.

The proviso has been inserted to avoid additional expenditure on account of these officers as far as is practicable.

Clause 8.—The alteration here has been necessitated by our recommendation in the subsequent clauses.

Clause 9.—We considered it undesirable to have different classifications for licences of money-lenders either on the basis of area or pecuniary limit of their business, as we thought that this might lead to complications and administrative inconvenience and have therefore provided for only one class of licence for the Province which should be renewable at the end of every three years.

Clause 9A is practically the original schedule to the Bill modified in consequence of our recommendation in clause 9. We consider a fee of Rs. 15 adequate for a triennial licence. In the proviso we have considered it advisable to allow the Provincial Government a discretionary power in reducing licence fees in appropriate cases or classes of cases.

Clauses 10, 11 and 12.—The amendments here are of a consequential nature. We have made it incumbent on the Court to penalise the money-lender who has not taken a licence instead of leaving it to its discretion.

Clauses 12A and 12B.—In these new clauses we have provided specifically for the disqualifications for holding a licence and also the method for proving such disqualifications. Our object here was to clarify the intention and simplify the procedure.

Clause 13.—This clause has been recast and expanded to make the provision for refusal of licence unambiguous. We have also made more exhaustive provision for appeals and revisions against orders of such refusal. We have considered it desirable to leave the procedure with regard to these matters to be prescribed by rules.

Clauses 13A and 13B.—These new clauses have been found necessary as we thought that the Sub-Registrars should have the power to cancel licences and as it would be impossible for them to function properly without requisite powers for compelling the attendance of witnesses.

Clause 14.—We did not think that any borrower, placed as they are under the clutches of the money-lenders, would make any frivolous complaints. We did not therefore consider it proper to put any obstacle on their path in making applications against undesirable money-lenders and have therefore omitted the restrictions.

Clause 15.—This clause has been recast and expanded. This provision about cancellation of licences including the procedure, extent of penalty and appeals have been clearly provided in the modified clause.

Clause 17 has been omitted as unnecessary.

CHAPTER IV.

Clause 20.—(1) We considered it essential that all accounts of money-lenders carrying on business in Bengal including receipts should be kept in the language of the province and have amended the clause accordingly.

(2) We have slightly amended this sub-clause providing for delivery of statements or receipts as soon as a loan is advanced or a payment is made, to avoid any possible difference which may be caused by lapse of time.

Clause 21—Sub-clause (1).—We have recommended that the statement of accounts must be submitted in Bengali in the spirit of earlier recommendations.

Sub-clause (1) (a) (a).—This is intended to cover cases of continuous transactions.

Sub-clause (2).—We did not consider it proper for the lender to charge any fees from the borrower for supplying him with statements which the latter can reasonably demand. The proviso to this has been inserted as we thought this would avoid too frequent demands for statements.

Sub-clause (3) has been amended by omission of "fees" and also by providing that the borrower should get copies only of documents evidencing the loan but not of any other document or security connected with it. Here again a proviso has been added to put a check on unnecessary demands.

Sub-clause (4).—We have thought fit for the convenience of the people of the province to define "year" as the Bengali year.

Clause 24.—We did not consider it expedient or desirable to give the Provincial Government any power as contemplated by the original clause and have therefore omitted it. Our intention was to bring all classes of lenders or money-lenders under uniform treatment.

CHAPTER V.

Clause 25.—We have considered the provision for indemnity in sub-clause (1) as an inadequate penalty against the defaulter and have provided for imprisonment and fine as more appropriate. In the new sub-clause (3) we have made the meaning of "assignment" clear.

Clause 26.—We have inserted "lenders" in this clause for obvious reasons.

Clause 27 has been omitted as unnecessary.

CHAPTER VI.

Clauses 28, 29 and 30.—These clauses have been redrafted and our recommendations in this connection have been embodied in the new clauses 28 and 29. In these new clauses we have considered it desirable to provide that the lender should on no account recover more than the original loan as interest. We have further provided that when part of the principal has been paid, the interest on the balance should never exceed the amount of such unrealised balance. We have recommended total abolition of compound interest and have found it extremely desirable to reduce the maximum rate of interest recoverable to 8 per cent. per annum for secured and 10 per cent. per annum for unsecured loans irrespective of whether such interest accrues before or after the commencement of this Act. We have further thought it desirable not to allow any interest after a decree is passed in any suit to which this Act applies, as our intention was to avoid interest on any interest on any form whatsoever.

Clause 31.—The words "of interest" have been omitted to include assessment of principal as well.

Clause 32.—We have omitted the proviso as this might lead to undesirable results and may be an instrument of unreasonable exactions by the money-lenders, who should, in our opinion, be prepared to incur all such reasonable expenditure when he lends money on interest.

CHAPTER VII.

Clause 33.—Our recommendations regarding instalments have been elaborately embodied in the redraft of this clause. In giving detailed directions our intention was to give the debtors all reasonable facilities in repaying their debt.

Clause 34.—This clause has been expanded and redrafted giving the Courts more power than was originally intended. We have thought it expedient to permit reopening of all transactions in connection with money-lending unreasonably closed or adjusted for a period of twelve years previous to the passing of this Act, as in our view a period of three years as originally provided would not meet the ends of justice.

We have however, given the Courts power to re-open decrees only when passed between the 1st January, 1939 and the date when this Bill passes into law and to order refund in cases of payments made in excess of the rates provided in this Bill when such payments are made after the 1st January, 1939. Details of procedure in this connection which cover executions, appeals and review have also been specifically provided for to avoid any possible confusion.

Clause 34A.—We have in this new clause provided for exemption of judgment-debtors from arrest and detention in prison as we thought these were undesirable tools in the hands of oppressive money-lenders.

Clause 35—Sub-clause (1).—We have provided the fee in the Bill itself instead of leaving it to be prescribed by rules, over which the Legislature might not have any say.

Sub-clause (3).—This sub-clause has been omitted as we thought it might tempt the money-lender, in bringing premature suits.

Clause 36.—In this clause we have omitted the provision for “prescribed fee” for depositing any money tendered to but refused by the lender. The charging of any fee in such cases is bound to result in hardship. The other amendments are of a consequential nature.

Clause 37—Sub-clause (1).—We have included “bond” in this sub-clause as this is one of the commonest kind of instruments which form the basis of loans.

Sub-clause (2).—We thought it desirable to introduce the element of “intention” as otherwise *bona fide* mistakes might come under the mischief of this clause. For deliberate misrepresentations we have thought it fit to make the section more stringent and have provided for the penalty of imprisonment in addition to fine.

Clause 37A.—This new clause has been provided as a safeguard against default in passing of the full consideration on a registered document. As the parties would at some stage appear before a registering officer, there can be no difficulty if the consideration passes in his presence.

Clause 37B.—We thought that the provisions of Chapters III and IV would lead to various complications if applied to “commercial loans” as we have defined, and have therefore specifically excluded the operation of those chapters on such loans.

Clause 38.—We considered the original provisions regarding penalty inadequate and have raised both fine and imprisonment to what seemed to us to be justified by the nature of the offence.

Clause 39—Sub-clause (1) has been slightly modified. We did not consider it fair that every adult coparcener should be punishable and have confined the punishment to the Manager only who would be mainly responsible for the mischief. We also thought it expedient to provide for punishment of those only who “knowingly or wilfully” commit or permit any default or contravention. This is intended to disregard *bona fide* and unintentional mistakes.

Sub-clauses (2) and (3).—These new sub-clauses are intended as safeguards against frivolous complaints.

Sub-clause (4) has been introduced to distinguish offences punishable under this clause from ordinary offences under the Indian Penal Code.

Clause 41.—The amendments in this clause are mostly of a consequential nature and have been made to conform to the altered provisions in the Bill.

THE SCHEDULE.

The original schedule has been omitted in consequence of the amendment in clause 9 and insertion of clause 9A. In the new schedule we have specifically mentioned the offences which in our opinion are sufficient to disqualify a money-lender from holding a licence, in terms of the new clause 12A of the Bill.

*MUSHARRUF HOSSAIN,

Member-in-charge.

*ABDUL BARI.

*MIRZA ABDUL HAFIZ.

*G. MORGAN.

*SASHI KANTA ACHARYYA CHOWDHURY.

*JOGESH CHANDRA SEN.

*D. P. KHAITAN.

*L. M. CROSFIELD.

*MONORANJAN BANERJEE.

*J. C. GUPTA.

*S. N. BISWAS.

*NALINAKSHA SANYAL.

*KSHETRA NATH SINGHA.

*ABDUL LATIF BISWAS.

*MD. ISRAIL.

*MD. MOZAMMEL HUQ.

*AFTAB HOSAIN JOARDAR.

*FAZLUR RAHMAN.

*SYED MD. AFZAL.

*AHMED HOSSAIN.

*SHAH SYED GOLAM SARWAR HOSSAINI.

*RAJIBUDDIN TARAFDAR.

*A. C. KUMAR.

*SYED ABDUL MAJID.

*ABDULLA-AL MAHMOOD.

*ABDUL HAKIM.

*A. M. A. ZAMAN.

PULIN BEHARY MULLICK.

SHAH ABDUR RAUF.

ZAHUR AHMED CHOWDHURY.

K. ALI AFZAL,

Secretary to the Bengal Legislative Assembly.

*Signed subject to a minute of dissent.

NOTE.—(1) No minutes of dissent had been received from the Hon'ble Nawab Musharruff Hossain, Khan Bahadur, Mr. A. C. Kumar, Mr. Syed Abdul Majid, Mr. Abdulla-al Mahmood, Maulvi Abdul Hakim and Mr. A. M. A. Zaman up to the time of printing the report.

(2) Signatures of the Hon'ble Mr. Nalini Banerji Sarker, the Hon'ble Mr. H. S. Sahrawardy and Mr. Abdul Hashim had not been received up to the time of printing the report.

(3) Mr. R. H. Ferguson has since resigned.

Minute of dissent by Maulvi Abdul Bari, M.L.A.

Clause 20.—The proviso to write the cash book, the ledger and the receipt book in Bengali will seriously handicap trade and business and entail serious hardship to the non-Bengali classes such as the Marwaris, the Englishmen and the Urdu-speaking Mussalmans coming from Western India. Every money-lender ought to have the individual liberty of maintaining his records in the language in which he speaks. The proviso to supply copy in Bengali to the borrower ought to be accepted as sufficient safeguard of the interest of the borrower.

The provisions of clause 20(1) is self-contradictory and inconsistent with what follows in clause 21(1) and (2).

Clause 29.—There should be no difference and distinction between loans in kind and loans in cash so far as interest is concerned. The rate of interest whether for loan in kind and in cash should be uniform. If the difference as proposed be maintained, the borrower will be left to the mercy of his merciless creditors to take higher interest as every loan will be shown as a loan in kind.

Clause 34.—The proviso to clause 34 nullifies the effect of the substantial clause 34 and makes nugatory the provisions of clauses 28 and 29. This proviso to clause 34 cuts at the very root of the whole Bill and runs counter to the wishes of the majority of the members of the Assembly.

To extend the operations of this Act to the Co-operative Societies would ring the death-bell of the Co-operative Movement of the province. Apart from commercial business the agriculturists for whose benefit primarily this Act is being enacted will be seriously affected. The sources of money are being already dried up in the mufassil and the winding up of the Co-operative Movement would add to the miseries of the people when they stand urgently in need of money. To bring the Post Office Savings Bank, Bank or Company within the purview of this Act, would in the long run, bring about the ruin of the country because banking and business are really the signs of the prosperity and growth of a country. A distinction ought to be drawn between agricultural and commercial loans.

Minute of dissent by Mr. Mirza Abdu'l Haffiz, M.L.A.

I reserve the right of moving further amendments in the House as I think right and proper for the good of the indebted province.

Sub-clause 2(10)(f).—By the deletion of this sub-clause a loan advanced to be used by the borrower for the purpose of any business or concern relating to trade, commerce and industry has been thought advisable not to be excluded from the purview of this Act in apprehension that if it is excluded then almost every money-lender in order to avoid the stringency of the Money-Lenders Act would persuade rather compel every borrower to give a bond with the stipulation of business concern for whatever purposes it may be at the threatening of not advancing money at all. It is not unnatural and improbable that some money-lenders may not adopt the same obnoxious course to avoid the provision of the Act on the plea of trade, commerce and industry but at the same time, I fear and perhaps rightly fear, that for such inclusion and control of mercantile loans the business of the province cannot but suffer which would be most detrimental to the cause of economical advancement of the country. According to me the gain under the present circumstances which is expected by control of mercantile loans to suppress some obnoxious tactics probably adopted by some law-avoiding money-lenders would be dwindled into naught in comparison with the loss that is apprehended in the business world at large. Of course it may be to a great extent rightly said that the business of the province has already been suffering from heavy indebtedness and if it is brought under the operation of this Act it may be released from the grip of such debt within a very few years after which a steady progress may set in motion in the field of business and many members of the Select Committee had that view in their minds to amend the clause. But still I think that with some restrictions and limitations so that the lenders may be confronted with sufficient checks to adopt such heinous tactics to avoid the Act, *bona fide* mercantile loans for the purposes of trade, commerce and industry should be excluded from the operation of this Act.

Joint minute of dissent by Mr. G. Morgan, M.L.A., Maharaja Sashi Kanta Acharyya Chowdhury, of Muktagacha, M.L.A., Rai Bahadur Jogesh Chandra Sen, M.L.A., Mr. D. P. Khaitan, M.L.A., and Mr. L. M. Grosfield, M.L.A.

We are of opinion that the Bill is *ultra vires* of the Provincial Legislature in, *inter alia*, so far as it affects—

- (a) Promissory Notes;
- (b) Corporations coming under Article 33 of List I of Schedule VII to the Government of India Act;
- (c) Banking coming under Article 38 of List I of Schedule VII to the Government of India Act;
- (d) Acts passed by the Central Legislature, e.g., Civil Procedure Code, Contract Act, Transfer of Property Act, etc.

We do not agree with several provisions of the Bill as amended by the Select Committee, *inter alia*—

- (a) the definition of "Loan", particularly as commercial loans, dealings by Banks, etc., and Promissory Notes are not exempted from the operation of the Bill;
- (b) the definitions of "money-lender" and "money-lending business", as the same are too wide and should at least be brought into conformity with the British Law on the subject;
- (c) the definition of "suit to which this Act applies", in so far as it is made retrospective in effect;
- (d) clauses 20 and 21 enforcing that the books of accounts are to be kept and statements are to be delivered in the Bengali language only;
- (e) extending the rule of *damdupat* to apply to interest already paid or included in any decree;
- (f) the provisions of clause 28(I)(b);
- (g) the maximum rates of interest provided for particularly in so far as they are given retrospective effect;
- (h) the application of the maximum rates of interest to commercial loans;
- (i) clause 29 disallowing any interest on the decretal amount;
- (j) the deletion of the proviso to clause 32;
- (k) the provisions of clause 33;
- (l) the provisions of clause 34 seeking to extend the provisions of section 3 of the Usurious Loans Act, 1918;
- (m) the provisions of clause 34A overriding the provisions of the Civil Procedure Code;
- (n) the provisions of clause 36(3) in so far as it enables the borrower to earmark a payment to be on account of principal while interest is due;
- (o) the omission of Chapter V from clause 37B, although the Select Committee decided to include that chapter in clause 37B and such decision was never reversed.

We reserve to ourselves the right to move or support any amendments that we consider to be proper.

Minute of dissent by Mr. Monoranjan Banerjee, M.L.A.

Before we proceed to go into the details of our dissent we think we should place on record our disappointment at the failure of our attempts to improve the Bill. The object of the Bill, though not expressly stated, was evidently to provide for strict regulation of the professional money-lenders. So far as that object was concerned we had no difference of opinion. But * * * the majority members of the Committee * * * in their over-jealousness to give relief to the debtors proposed and carried such measures as are likely to cut the root of future money-lending business. There is no gainsaying that the application of the Bengal Agricultural Debtors Act of 1935, while affording some relief to the debtors in so far as their existing debts are concerned, has resulted in drying up all the channels of credit supply in the mofussil in general and in the rural area in particular. However, the said Act being a temporary measure its effects also were to be temporary. But the Money-Lenders Bill, if passed into law, will be a permanent statute and we expected that the experience of the peoples' representatives in the Select Committee would influence them to so provide in the Bill that the dried channels of credit supply might be rehabilitated. Unfortunately, the majority * * did not look at the Bill

from that point of view. They went further than the authors of the Bengal Agricultural Debtors Act and acted upon an idea that there was no more necessity of any person for incurring any debt. The rates of interest for future loans were not matters of much dispute. There was a general agreement in respect of the rates of interest. But the provisions of clauses 33 and 34 which relate to realisation of debts have been so laid down that every money-lender, whether an individual or a corporate body, will think thrice before lending any money to anybody for any purpose, whether on credit or against security. Where we expected that our experience would influence us to ease the realisation of future debts, the measures that have passed through majority votes have further tightened it. If these measures are passed as law, the prospective borrowers of every section of the society, in whose interest such law is purported to be made, will resent it more than the money-lenders. We raised this alarm in the course of our debate but our voice was whittled down.

Then as regards the realisation of the existing debts, we were in favour of giving the debtors as much relief as was reasonably possible in addition to the relief contemplated by the Bengal Agricultural Debtors Act; but some such provisions have been carried * * * * * as, when passed into law, may in many cases result in serious loss to innocent money-lenders and in dislocation of trade and industry; even a popular money-lender, who lent the money on small rates of interest within the limits, prescribed by the Bill and whose debtor also was gladly paying the interest, may suddenly find his or her capital on whose interest he or she had been living with his or her children, vanishing all on a sudden, his or her offence being that the debtor was allowed to keep the loan unrepaid for a long time to his own benefit because it was carrying small rates of interest.

Reserving our further comments on the outlook with which the majority of the members of the Committee approached the Bill for a future date and at the proper place, we now note below our dissent from several provisions of the Bill as have emerged out of the Select Committee, *inter alia*—

(1) **Clause 2.**—(a) The definitions contained in sub-clauses (1), (4) and (5) should have been retained.

(b) Sub-clause (10) (f) which exempted commercial loans from the operation of the Bill should have been retained.

(c) Explanations (1), (2) and (3) should have been retained.

(d) The definition of "money-lending business" as contained in sub-clause (12) should have been more clear and definite, so that a friend lending money to a friend for short-time accommodation might not be scared away.

(e) The words "before or" in sub-clause (19) (b) should not have been inserted.

(2) **Clause 20.**—The money-lenders who transact business in Calcutta and mofussil towns should have been allowed to keep their accounts in Bengali or English.

(3) **Clause 21.**—Statements by the abovementioned money-lenders should have been allowed to be delivered in English or Bengali as the borrower would desire.

(4) **Chapter IV.**—Government should have been vested with the power to exempt certain classes of money-lenders from the operations of the provisions of clauses 20 and 23, such as agriculturists who lend money on usufructuary mortgage and widows and orphans whose money-lending business does not exceed three hundred rupees.

(5) **Clause 25.**—The punishment should have been less severe.

(6) **Clause 28.**—(a) Sub-clauses (a) and (b) should have exempted loans carrying interest within the limits prescribed in this clause.

(b) In sub-clause (c) (ii) there should have been differentiation between loans secured against immovable property and loans against liquid securities.

(7) **Clause 29.**—Such a clause should not have found place in the Bill.

(8) **Clause 32.**—The proviso should have been retained.

(9) **Clause 33.**—(a) Granting of instalments in decrees should not have been made obligatory by substituting the word "shall" in the place of "may" of the original Bill.

(b) Stopping payment of interest on instalments in mortgage decrees and allowing interest at the rate of three per cent. only on instalment in default could not be supported.

(c) At the time of the preliminary decree in a mortgage suit the Court ordinarily grants some time for payment before the final decree. The Court should have been given wider discretion, but instalments for ten years is not only excessive but out of proportion.

(d) In simple money-decrees, the Court's power to give instalments over a period up to twenty years and the mandate upon the Court to order that in default of payment of one instalment, that instalment only and not the whole amount due shall be recoverable and that too without interest were unsupportable.

(10) **Clause 34.**—(a) Sub-clause (a) was unsupportable.

(b) Sub-clause (d) should have excluded commercial loans from its operation.

(c) Re-opening of any agreement or adjustment within a period of twelve years was not supportable.

(d) No provision should have been made for refund on interest paid at the rates allowed by law.

(11) **Clause 36.**—The language of sub-clause (3) should have been clear enough to debar a borrower from earmarking a deposit towards payment of the principal or any part thereof before paying the entire amount of interest due.

(12) **Clause 37B.**—Chapter V should have been included in sub-clause (1).

(13) **Clause 39.**—The word "Hindu" in sub-clause (b) was put unnecessarily.

We reserve the right to move or support any amendment to any of the provisions of the Bill, that we consider fit.

We cannot conclude without observing that some provisions of the Bill were *ultra vires* of the Provincial Legislature * * * * *

Joint minute of dissent by Mr. J. C. Gupta, M.L.A., and Mr. S. N. Biswas, M.L.A.

We are of opinion that the Bill as it has emerged out of the Select Committee will fail in its object. The Bill was intended to give protection to helpless borrowers against excessive rate of interest and harassment at the hands of professional money-lenders. But the amendments carried by a majority of votes, we are afraid, will result in the destruction of credit supply altogether, particularly in the rural areas, and will also result in dislocation in trade and industry in the Province.

Some of the members * * * * * openly stated more than once during discussion that we need not be concerned about credit facilities and that the people of Bengal needed no loans or credit-supply in future. It was further said that those who had engaged themselves in money-lending business in the past were all pests of the society and should be wiped out of existence. Owing to prevalence of such sentiments our attempts to ensure the laudable object of the Bill and to improve the Bill failed.

Reserving our further comments on the outlook with which the majority of the members of the Committee approached the Bill for a future date and at the proper place, we now note below our dissent from several provisions of the Bill as have emerged out of the Select Committee, *inter alia*—

(1) **Clause 2.**—(a) The definitions contained in sub-clauses (1), (4) and (5) should have been retained.

(b) Sub-clause (10)(f) which exempted commercial loans from the operation of the Bill should have been retained.

(c) Explanations (1), (2) and (3) should have been retained.

(d) The definition of "money-lending business" as contained in sub-clause (12) should have been more clear and definite, so that a friend lending money to a friend for short-time accommodation might not be scared away.

(e) The words "before or" in sub-clause (19)(b) should not have been inserted.

(2) **Clause 20.**—The money-lenders who transact business in Calcutta and mofussil towns should have been allowed to keep their accounts in Bengali or English.

(3) **Clause 21.**—Statements by the abovementioned money-lenders should have been allowed to be delivered in English or Bengali as the borrower would desire.

(4) **Chapter IV.**—Government should have been vested with the power to exempt certain classes of money-lenders from the operations of the provisions of clauses 20 and 23, such as agriculturists who lend money on usufructuary mortgage and widows and orphans whose money-lending business does not exceed three hundred rupees.

(5) **Clause 25.**—The punishment should have been less severe.

(6) **Clause 28.**—(a) Sub-clauses (a) and (b) should have exempted loans carrying interest within the limits prescribed in this clause.

(b) In sub-clause (c)(ii) there should have been differentiation between loans secured against immovable property and loans against liquid securities.

(7) **Clause 29.**—Such a clause should not have found place in the Bill.

(8) **Clause 32.**—The proviso should have been retained.

(9) **Clause 33.**—(a) Granting of instalments in decrees should not have been made obligatory by substituting the word "shall" in the place of "may" of the original Bill.

(b) Stopping payment of interest on instalments in mortgage decrees and allowing interest at the rate of three per cent. only a instalment in default could not be supported.

(c) At the time of the preliminary decree in a mortgage suit the Court ordinarily grants some time for payment before the final decree. The Court should have been given wider discretion to extend that time, but instalments covering six months were not supportable.

(d) In simple money-decrees, the Court's power to give instalments over a period up to twenty years and the mandate upon the court to order that in default of payment of one instalment, that instalment only and not the whole amount due shall be recoverable were unsupportable.

(10) Clause 34.—(a) Sub-clause (a) was unsupportable.

(b) Sub-clause (d) should have excluded commercial loans from its operation.

(c) Re-opening of any agreement or adjustment within a period of twelve years was not supportable.

(d) No provision should have been made for refund of interest paid at the rates allowed by law.

(11) Clause 36.—The language of sub-clause (3) should have been clear enough to debar a borrower from earmarking a deposit towards payment of the principal or any part thereof before paying the entire amount of interest due.

(12) Clause 37B.—Chapter V should have been included in sub-clause (1).

(13) Clause 39.—The word "Hindu" in sub-clause (b) was put unnecessarily.

We reserve the right to move or support any amendment to any of the provisions of the Bill, that we consider fit.

We cannot conclude without observing that some provisions of the Bill were *ultra vires* of the Provincial Legislature.

Minute of dissent by Dr. Nalinaksha Sanyal, M.L.A.

I place on record my emphatic protest against the form in which the Select Committee's Report has been drafted whereby certain supposed convention has been invoked to hide the real character of the Report, and I sign the Report subject to the following note of dissent. I do this more as a student of Economics than as a member of a political Party.

The Bill as it has emerged from the Select Committee fails to ensure the maintenance of suitable credit machineries for different classes of the population, particularly, for the agriculturists, and if passed into law, is likely to cause great hardship to the masses, as it is bound to dry up very largely the present sources of credit.

The following points in particular should receive serious consideration:—

(1) The majority of members of the Select Committee have, in my opinion, failed to appreciate the real purpose of a comprehensive legislation relating to money-lenders and the business of money-lending. They have approached the questions mainly from the point of view of an emergency measure calculated to scale down the burden of present indebtedness without due regard to the requirements of rural credit and other credit agencies.

(2) The Report seeks to apply the same set of measures for regulating all classes of credit transactions, agricultural, industrial and commercial, and problems of each of which are widely divergent and demand separate examination.

(3) The dealings of Joint Stock Banks, Insurance Companies, Building Societies, etc., and of Registered Corporations have been subjected to the same restrictive conditions as those of village money-lenders. If the Bill in its present form is passed into law the development of sound banking in the country will be seriously jeopardised and probably the structure of the entire money market will be shattered; and those in need of credit for industrial, commercial and agricultural pursuits will be the greatest sufferers.

(4) So long as complete nationalisation of all institutions of production and State ownership and management of industrial, commercial, transport and credit undertakings are not achieved, the function of capital as a factor of production should not be underestimated and under present economic order the subjective as well as objective conditions of accumulation of capital in the society cannot be ignored.

(5) At a time when Bengal is on the threshold of an economic reconstruction involving the extension of industrial and commercial facilities, it will be suicidal to indulge in measures which may frighten away what little capital has just begun to be attracted. This will set-back the little progress attained and will probably increase unemployment.

(6) The Report infringes some of the fundamental principles of legislation, e.g., *nova constitutio futuris formam imponere debet non praeteritis*, a new law ought to be prospective, not retrospective in its operations.

(7) It is apprehended that some of the recommendations made in this Report are *ultra vires* of the Provincial Legislature, particularly, the provisions relating to Banks, Corporations and Negotiable Instruments. Certain subjects of concurrent Legislative List such as Civil Procedure, Transfer of Property, Contracts, Evidence, etc., are also affected.

A legislation of this character should not be proceeded with and public money spent in that connection before taking proper legal advice on such matters.

I reserve my right to move suitable amendments to the Bill in proper time and without prejudice to such a right I propose that the following changes in the various clauses should be made:—

Clause 1, sub-clause (3).—Government should be empowered to bring into force different provisions of the Bill, particularly those mentioned in Chapters 3 and 4 on separate dates as may be found practicable.

Clause 2, sub-clause (10) (f).—This excluding clause defining commercial transactions or any modified form thereof should be retained.

Clause 8.—Add the words “or to the firm, Corporation or joint-family of which he is a member”.

Clause 14.—It is unfair and impracticable to insist that all money-lenders in Bengal should write out their accounts in Bengali, much though this would be welcome. It should suffice, if money-lenders are required to supply to the borrower statements in Bengali or in the language of the borrower. This applies also to clause 21.

Clause 24, sub-clause (10) (f).—This should be reinstated.

Clause 25, sub-clause (2).—The punishment provided is much too severe.

Clause 28.—This should be thoroughly recast along following lines:—

(i) clause 28 (a) may be applied to loans used for or in connection with agriculture, but should not apply to commercial loans, building societies' transactions and long term debentures of industrial concerns.

(ii) clause 28 (c) should have a definite date stated, say, 1st January, 1939, for the applicability of the new rates and the rates of interest should be such as may be recommended by the Reserve Bank of India from time to time in view of the state of the money market, world economic conditions and the rates prevailing in other Indian provinces, particularly in the adjoining provinces. A differentiation between loan against mortgages of immovable properties and secured loans against movable or readily realisable securities may be made if a lower maximum for the latter group is considered desirable.

Clause 29 should be deleted.

Clause 32.—Proviso should be reinstated.

Clause 33 should be entirely recast as it contains many absurd, unpractical and utterly unfair provisions.

Clause 34.—The provision for re-opening past transactions and for refunding excess payment should be left entirely in the discretion of the Court where a *prima facie* case of unconscionable and substantially unfair character of a loan has been made out.

Clause 37.—The receipt of blank transfer of shares and such instruments in commercial transactions as securities for loans should not be made illegal and failure to comply with the provisions of clause 37 (1) should not entail such stringent punishment as in clause 37 (3).

Minute of dissent by Babu Kshetra Nath Singha, M.L.A.

1. I like to dissent in the provisions to include the commercial transactions within the purview of the Bill. My opinion is this that the world is fast approaching to economic revolution. While other countries are adopting a monopolistic principle and trying to be self-sufficient in their trade, industry and commerce, Bengal with her huge raw materials, should not lag behind and put obstructions to the free growth of her infant trade, industry and commerce and be at the kind mercy of foreign competition to the utter ruin and devastation of her home products.

2. In clause 36 (3) interest shall cease from the date of deposit to save the lender from harassment and uncertainty of date of service.

Minute of dissent by Maulvi Abdul Latif Biswas, M.L.A.

Clause 8.—In this clause provision has been made to the effect that no money-lender shall carry on the business of money-lending unless he holds an effective licence after such date, not less than six months after the commencement of this Act, as the Provincial Government shall, by notification in the *Official Gazette*, appoint in this behalf. So the virtual effect of this provision is that Government will be at liberty

not to appoint any such date for any length of time and the only restriction put upon the Government is that the Government is not entitled to fix up date within six months after the commencement of this Act. And if the Government desires it may fix up such date after two, three, six or twelve years or more. We have seen in our practical experience that some good laws or Acts have been proved to be ineffective and dead letters owing to the fact that no restriction was placed upon the Government as to the time within which those laws or Acts were to be put in force. It may so happen that many forces strong in their nature may work in such a way as to prevent the Government from putting these provisions into effect if no time limit is provided for the purpose. That is why I am of opinion that without giving the Government long rope it should be provided that the Government must enforce these provisions within a particular time, so that the provision, very salutary in effect, may not prove fruitless or dead letter for want of such restriction. So it is my proposal that the words "after such date not less than six months after the commencement of this Act" be substituted by the words "after such date not more than one year after the commencement of this Act".

Joint minute of dissent by Maulvi Md. Israil, M.L.A., Maulvi Mohammed Mozammel Huq, M.L.A., Maulvi Aftab Hosain Joardar, M.L.A., Mr. Fazlur Rahman, M.L.A. (Mymensingh), Khan Sahib Maulvi Syed Md. Afzal, M.L.A., Mr. Ahmed Hossain, M.L.A., Mr. Shah Syed Golam Sarwar Hossaini, M.L.A., and Maulvi Rajibuddin Tarafdar, M.L.A.

The rate of interest specified in clause 28, sub-clause (c) (i) and (ii) should, in our opinion, be 9 per cent. and 6 per cent. per annum in place of the rates proposed in the Bill, because the proposed rates of interest appear to us to be excessive in view of the impoverished condition of the debtors due to economic depression and other natural calamities that have befallen them.

THE BENGAL MONEY-LENDER'S BILL, [1938.] 1939.

Preamble.

CHAPTER I.

INTRODUCTORY.

CLAUSE.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II.

POWERS OF COURTS IN PROCEEDINGS UNDER THIS ACT.

3. Competent Courts under this Act.
4. Procedure in Competent Courts.

CHAPTER III.

REGISTRATION AND LICENSING OF MONEY-LENDERS.

- [5. *Definitions.*]
6. Appointment of Provincial and other Registrars.
7. Register of money-lenders.
8. Money-lending business not to be carried on except under licence.
9. Licences.
- 9A. Licence fee.
10. Application for licences.
11. Entry in register and grant of licences.
12. Stay of suit when money-lender does not hold licence.
- 12A. Disqualification of persons for holding a licence.
- 12B. Proof of conviction or order for disqualification.
13. Refusal to grant licence.
- 13A. Cancellation of licence by a Sub-Registrar.
- 13B. Power to Registrar and Sub-Registrar to examine any person on oath.
14. Application for cancellation of licence.
15. Court's power to cancel [*or suspend*] a licence.
16. No compensation for cancellation [*or suspension*] of licence.
- [17. *Disqualification of person whose licence has been suspended or cancelled.*]
18. Licence [*duty*] fees and penalties recoverable as public demands.
19. Offences in respect of licences.

CHAPTER IV.

REGULATION OF ACCOUNTS OF MONEY-LENDERS.

20. Duty of money-lender to keep accounts.
21. Money-lenders to furnish statements of accounts.
22. Borrower not bound by money-lender's statement of accounts.
23. Procedure in suits relating to loans by money-lenders.
- [24. *This Chapter not to apply to banks, companies, etc.*]

CHAPTER V.

[Other Provisions relating to Money-lenders.] ASSIGNMENT OF LOANS.

25. Notice and information to be given on assignment of loans by [*money*]-lenders.
26. Application of Act as respects assignees.
- [27. *Provisions as to insolvency proceedings for loans by money-lenders.*]

CHAPTER VI.

INTEREST AND OTHER CHARGES.

CLAUSE.

28. Limitations as to [amount of] the amount and rate of interest recoverable.
29. [Limitations as to rate of interest recoverable.] Prohibition of interest on decretal amount.
30. Prohibition of compound interest and provision as to default.]
31. Computation of interest on loans in kind.
32. Prohibition of charges for expenses on loans.

CHAPTER VII.

MISCELLANEOUS.

33. Power [to] of Court to direct payment by instalments.
34. Re-opening of transactions.
- 34A. Prohibition of execution of decrees by arrest and detention in prison.
35. Inquiry for taking accounts and declaring the amount due.
36. Deposit in Court of money due to lender.
37. Entry of an amount in a bond, etc., different to the amount actually lent to be an offence.
- 37A. Payment of loan in cash to a borrower to be made in the presence of the registering officer.
- 37B. Chapters III and IV not to apply to commercial loans.
38. Penalty for molestation.
39. General provisions regarding penalties.
40. Protection to persons acting under this Act.
41. Power to make rules.
42. Bengal Act VII of 1938 not to apply to loans to which this Act applies.

THE SCHEDULE.

THE BENGAL MONEY-LENDERS BILL, [1938.] 1939.

Embodying amendments recommended by the Select Committee.

[NOTE.—All matter omitted by the Select Committee has been printed in italics and enclosed in square brackets and all new matter inserted has been underlined.]

A

BILL

further to regulate transactions of money-lending in Bengal.

WHEREAS it is expedient to make further and better provision for the regulation and control of money-lending:

It is hereby enacted as follows:—

CHAPTER I

Introductory.

Short title,
extent and
commencement.

1. (1) This Act may be called the Bengal Money-lenders Act, [1938.] 1939.

(2) It extends to the whole of Bengal.

(3) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

[(1) “bank” means a banking company as defined in section 277F of the Indian Companies Act, [VII of 1913, whether incorporated in or outside British India;] 1913.]

(1) “borrower” means a person to whom a loan is advanced;

[(2) “Calcutta” includes—

(a) the whole area contained within the boundaries described in Schedule I (as in force at the commencement of this Act) to the Calcutta Municipal Act, 1923;

(b) the Dum Dum, Garden Reach, Howrah, South Suburban and Tollygunge Municipalities as they existed at the commencement of this Act:

[Ben. Act
III of
1923.]

Provided that this definition may be varied from time to time by the Provincial Government by notification under this Act in the *Official Gazette*;

(2) “Calcutta” means the area within the limits of the ordinary original civil jurisdiction of the High Court in Calcutta.

(3) “capital” means a sum of money which a money-lender invests in the business of money-lending;

[(4) “company” means a company as defined in the Indian Companies Act, 1913, or formed under the provisions of an Act of Parliament or of the Legislature of a British Dominion or Colony, or by a Royal Charter or Letters Patent;

(5) “co-operative society” means a society registered under the Co-operative Societies Act, 1912, or any Act of the Provincial Legislature, for the time being in force, relating to such societies;

*The Bengal Money-lenders Bill, [1938.] 1939.**(Chapter I.—Introductory.—Clause 2.)*

- (6) "insurance company" has the same meaning as in Part III of the Indian Insurance Companies Act, 1928, and "life assurance company" means a company to which the Indian Life Assurance Companies Act, 1912, applies; [XX of 1928.] [VI of 1912.]
- (7) "interest" includes any sum by whatsoever name called, in excess of the principal paid or payable to a lender in consideration of, or otherwise in respect of, a loan, but does not include any sum lawfully charged by a lender in accordance with the provisions of this Act or any other law for the time being in force for or on account of costs, charges or expenses;
- (8) "lender" means a person who advances a loan and includes a money-lender;
- (9) "licence" means a licence granted under this Act;
- (10) "loan" means an advance, whether of money or in kind, made on condition of repayment with interest and includes any transaction which is in substance a loan but does not include—
- (a) a deposit of money or other property [in a Post Office Savings Bank or with any bank, company or co-operative society];
- (b) a loan to, or by, or a deposit with, any society or association registered under the Societies Registration Act, 1860, or under any other law relating to public, religious or charitable objects; XXI of 1860.
- (c) a loan taken or advanced by any Government in British India, or by any local authority in Bengal;
- (d) a loan advanced by a bank, co-operative society, insurance company, life assurance company or provident insurance society;
- (e) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note; XXVI of 1881.
- (f) a loan (other than a loan to be used by the borrower for the purposes of agriculture) advanced to be used by the borrower for the purposes of any business or concern relating to trade, commerce, industry, mining, insurance, banking or entertainment, or to the occupation of wharfinger, warehouseman or contractor or any other venture of a mercantile nature, whether as proprietor or agent or guarantor;

[Explanation (1).—A bond bearing interest executed in respect of goods taken on credit for the purpose of sale by the borrower falls within sub-clause (f) and is not a loan.

Explanation (2).—A bond bearing interest executed in respect of goods taken on credit not for the purpose of sale by the borrower is a loan.

Explanation (3).—A supply of goods on credit with no stipulation as to interest or on contract of hire-purchase is not a loan.]

- (11) "money-lender" means a person who carries on the business of money-lending in Bengal or who has his principal place of such business in Bengal, and includes a pawnee as defined in section 172 of the Indian Contract Act, 1872; IX of 1872.
- (12) "money-lending business" and "business of money-lending" mean the business of advancing loans either solely or in conjunction with any other business;

The Bengal Money-lenders Bill, [1938.] 1939.

*(Chapter I.—Introductory.—Chapter II.—Powers of Courts
in Proceedings under this Act.—Clauses 2, 3.)*

(13) "prescribed" means prescribed by rules made under this Act;

(14) "principal" means in relation to a loan the amount actually advanced to the borrower;

[(15) "proceedings under this Act" means proceedings under section 14 or appeals under sub-section (3) of section 13;]

[(16) "provident insurance society" means a society registered under the Provident Insurance Societies Act, 1912;]

[V of 1912.]

(17) "register" means a register of money-lenders maintained under section 7;

(18) "suit" includes an appeal;

(19) "suit to which this Act applies" means any suit or proceeding—

[Cf. X of 1918, s. 2(3).]

(a) for the recovery of a loan advanced before or after the commencement of this Act;

(b) for the enforcement of any agreement entered into before or after the commencement of this Act, whether by way of settlement of account or otherwise, or of any security so taken, in respect of any loan advanced whether before or after the commencement of this Act; or

(c) for the redemption of any security given before or after the commencement of this Act in respect of any loan advanced whether before or after the commencement of this Act.

[CHAPTER II.]

[Powers of Courts in Proceedings under this Act.]

[Competent Courts under this Act.]

[3. Notwithstanding anything contained in any other law, the Courts (hereinafter referred to as Competent Courts) which have jurisdiction to entertain proceedings under this Act and to pass orders therein are—

(a) in Calcutta—

(i) in such proceedings to which a money-lender who holds a Provincial or first class Calcutta licence is a party, the High Court in its ordinary original jurisdiction;

(ii) in such proceedings to which a money-lender who holds a second or third class Calcutta licence is a party, the Court of Small Causes of Calcutta;

(b) outside Calcutta—

(i) in such proceedings to which a money-lender who holds a Provincial mufassil or district licence is a party, the Court of a Subordinate Judge of the district;

(ii) in such proceedings to which a money-lender who holds a subdivisional or police-station licence is a party, the Court of a munsif empowered in this behalf by the Provincial Government.

Explanation.—In this section the expression "holds" includes the expressions "held", "should hold" or "should have held" in relation to the money-lender's business of money-lending

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter II.—Powers of Courts in Proceedings under this Act.—Chapter III.—Registration and Licensing of Money-lenders.—Clauses 4—6.)

[Procedure in
Competent
Courts.]

4. (1) Subject to the provisions of this Act, a Competent Court shall, in proceedings under this Act, have the same powers and shall follow the same procedure as it has and follows in civil suits.

(2) Every order made by the High Court as a Competent Court under this Act shall be subject to appeal in the same way and be subject to the same provisions as an appeal made by in its ordinary civil jurisdiction; and every order made by any other Competent Court under this Act shall be subject to appeal in accordance with the provisions of the Code of Civil Procedure, 1908, applicable to appeals. [Act V of 1908.]

CHAPTER II.Powers of Courts in Proceedings under this Act.

Competent
Courts under
this Act.

3. Notwithstanding anything contained in any other law, the Courts (hereinafter referred to as Competent Courts) which have jurisdiction to entertain proceedings under section 14 and to pass orders therein are the Courts hereinafter specified, within the local limits of whose jurisdiction, the money-lender actually and voluntarily resides or carries on the business of money-lending—

(a) in Calcutta the Court of Small Causes of Calcutta;

(b) outside Calcutta the Court of the District Judge (hereinafter called a "District Court") and any Court to which he may transfer the proceedings.

Procedure in
Competent
Courts.

4. (1) Subject to the provisions of this Act, a Competent Court shall, in proceedings under section 14 have the same powers and shall follow the same procedure as it has and follows in civil suits and the provisions of section 24 of the Code of Civil Procedure, 1908, shall apply to such proceedings. [Act V of 1908.]

(2) Every order made by a Competent Court under this Act shall be subject to appeal in accordance with the provisions of the Code of Civil Procedure, 1908, applicable to appeals.

(3) An appeal from a decision made by the Court of Small Causes of Calcutta under this Act shall lie to the High Court as if it were an appeal under sub-section (2) to the High Court from a decision made by a District Court.

CHAPTER III.Registration and Licensing of Money-lenders.

[Definition.]

5. In this chapter the expression "year" means a year beginning on such date as the Provincial Government shall, by notification in the Official Gazette, appoint in this behalf.

[Appointment
of Provincial
and other
Registrars.]

6. The Provincial Government may appoint a Provincial Registrar and Registrars of Money-lenders (hereinafter referred to as Registrars) for the purposes of this Act, and may define, by notification, the area within which each shall exercise his powers and perform his duties, and may prescribe the control, if any, which a Registrar of a particular area shall exercise over the Registrar of another area.]

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter III.—Registration and Licensing of Money-lenders.—Clauses 6—9.)

Appointment of Provincial and other Registrars.

6. There shall be a Provincial Registrar for the purposes of this Act and as many Registrars and Sub-Registrars of money-lenders for assisting the Registrar as the Provincial Government may from time to time determine. The Provincial Government may denote, by notification in the *Official Gazette*, the area within which each shall exercise his powers and perform his duties and may prescribe the control, if any, which the Provincial Registrar shall exercise over the Registrars and Sub-Registrars and a Registrar over the Sub-Registrars:

Provided that no person who is not an officer of the Crown in India shall be empowered to act as a Provincial Registrar, Registrar or Sub-Registrar under this Act.

Register of money-lenders.

7. Each Sub-Registrar shall maintain in the prescribed form a register of money-lenders holding licences issued by him— [for his area.]

[Money-lending business not to be carried on except under licence.]

8. After such date not less than six months after the commencement of this Act as the Provincial Government shall, by notification in the *Official Gazette*, appoint in this behalf, no money-lender shall carry on the business of money lending except—

- (a) in the area for which he has been granted a licence, and
- (b) in accordance with the terms and conditions of such licence.]

Money-lending business not to be carried on except under licence.

8. After such date not less than six months after the commencement of this Act as the Provincial Government shall, by notification in the *Official Gazette*, appoint in this behalf, no money-lender shall carry on the business of money-lending unless he holds an effective licence issued to himself.

Explanation.—An effective licence for the purposes of this Act comprises a licence issued to a person who is not disqualified for holding a licence.

[Licences.]

9. (1) Licences may be granted for the whole of Bengal (to be called a Provincial licence), for the whole of Bengal excluding Calcutta (to be called a mufassil licence), for Calcutta (to be called a Calcutta licence) or for any specified district, subdivision or police-station (to be called a district, subdivisional or police-station—licence, respectively).

(2) There shall be three classes of Calcutta licence, and a first class Calcutta licence shall be granted unless the applicant proves to the satisfaction of the Registrar that the maximum amount of capital invested or intended to be invested in the business of money-lending during the year to which the licence relates is less than ten thousand rupees or five thousand rupees when a second or third class Calcutta licence, respectively, may be granted.

(3) A money-lender may apply—

- (a) for the grant of licences for more than one area, or
- (b) while holding a licence for a particular area, for the conversion of such licence into a licence for a larger area containing the area for which he holds a licence, or

The Bengal Money-lenders Bill, [1938.] 1939.(Chapter III.—Registration and Licensing of Money-lenders.—
Clauses 9—11.)

(e) while holding a Calcutta licence of one class, for the conversion of such licence into a Calcutta licence of higher class.

(4) All licences shall be issued annually and a licence shall be valid only for the year or portion thereof in respect of which it has been issued.

(5) For the purposes of this Act, subject to the provisions of clause (2) of section 2,—

(a) "district" means the local area under the jurisdiction of a District Magistrate, and

(b) "subdivision" and "police-station" shall have the meanings assigned to them in the Code of Criminal Procedure, 1898,

and, until varied by the Provincial Government by notification under this Act, the limits of all districts, subdivisions and police-stations shall, subject as aforesaid, be such as existed at the commencement of this Act.]

Licences.

9. (1) A licence shall be valid throughout the whole of Bengal for a period of three years from the date of its issue or until it is cancelled.

(2) On the expiration of the period for which the licence was granted or on the cancellation of a licence it shall be returned by the money-lender to the Sub-Registrar who issued it.

Licence fee.

9A. There shall be paid to the Provincial Government a fee of fifteen rupees for a licence issued under this Act:

Provided that the Provincial Government may, by notification in the Official Gazette, remit any part of such fee either generally or for any particular class of money-lenders.

[Application for licences.]

[10. An application for the grant or conversion of a licence shall be made in the prescribed form and manner to the Registrar of the area within the limits of which the business of money-lending is intended to be carried on, and shall contain such particulars as may be prescribed:

Provided that in the case of an application for a first grant of a licence, a date before which such application shall be made may be prescribed.

[Entry in register and grant of licences.]

11. (1) On the receipt of an application under section 10 and on payment in the prescribed manner of the licence duty specified in the schedule, the Registrar may, subject to the provisions of section 13 and after making such summary inquiry as he deems necessary, enter the name of the applicant in the register for the year and grant the applicant a licence in such form and subject to such conditions as may be prescribed.

(2) The provisions of sub-section (1) shall apply to the case of a money-lender required under sub-section (2) of section 12 to produce a licence:

Provided that—

(a) the money-lender shall also pay all arrears of licence duty and penalty, if any, directed by the Court to be paid, and

(b) the Registrar may enter the name of the applicant in the register, and grant him a licence for the year or years in respect of which he has been required to produce a licence.

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter III.—Registration and Licensing of Money-lenders.

—Clause 12.)

(3) (i) If at any time during a year for which a licence has been granted, a Registrar has reason to believe—

(a) that a money-lender has engaged in the business of money-lending in any area for which he has not been granted a licence, or

(b) in respect of a money-lender to whom a second or third class Calcutta licence has been granted, that such money-lender has invested more than ten thousand rupees or five thousand rupees respectively during the year,

he may, after summary inquiry, determine the amount or additional amount, if any, of licence duty which the money-lender is liable, in accordance with the rates specified in the schedule, to pay and may recover the same from the money-lender together with such penalty as he thinks fit, not exceeding three times the amount of licence duty found to be payable:

Provided that if the Registrar has reason to believe that the money-lender has been engaged in the business of money-lending in an area for which he is not competent to grant a licence, he shall forward the case to the prescribed Registrar who shall deal with the case in the manner provided in this sub-section:

(i) When the sums payable under clause (i) have been paid, the Registrar may, unless he has reasons for passing an order under section 13, enter the name of the money-lender in the appropriate register and grant the money-lender a licence, or in cases referred to in sub-clause (b) of clause (i), correct the register and convert the licence.

(4) For the purpose of inquiries under this section and under sub-section (2) of section 9, a Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of—

[Act V of 1908.]

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents, including books of account;

(c) issuing commissions for the examination of witnesses; and

(d) proof of facts by affidavits.

[Stay of suit when money lender does not hold licence.]

12. (1) No Court shall pass a decree or order in favour of a money-lender in any suit to which this Act applies and which has been instituted by a money-lender, unless the Court is satisfied that at the time or times when the loan or any part thereof to which the suit relates was advanced, the money-lender held, if so required by this Act, a licence for the appropriate area which was not suspended or cancelled or which had not expired.

(2) If during the trial of a suit to which this Act applies, the Court finds that the money-lender had not held such licence, the Court may, on the application of the money-lender, stay the hearing of the suit and require the money-lender within three months or within such further period as the Court may from time to time see fit to grant to produce a licence on payment to the Registrar of all arrears of licence duty payable by him in accordance with the rates specified in the schedule for the years commencing with the year during which he began his money-lending business or with the date notified under section 8, whichever is later, during which he has continued money-lending business, together with such penalty as the Court thinks fit, not exceeding three times the amount of the said arrears of licence duty.

*The Bengal Money-lenders Bill, [1938.] 1939.**(Chapter III.—Registration and Licensing of Money-lenders
—Clauses 13, 14.)*

(3) If the money-lender fails to produce the licence within the period allowed under sub-section (2), the Court shall dismiss the suit and inform in the prescribed manner the Registrar of the appropriate area; if the money-lender produces the licence within such period, the Court shall proceed to hear the suit.

(4) The provisions of this section shall apply to a claim for a set off by or on behalf of a money-lender.

(5) In this section and in sub-section (2) of section 11, the expression "money-lender" includes an assignee of a money-lender, if the Court is satisfied that the assignment was made for the purposes of avoiding the payment of licence duty and penalty which may be ordered to be paid under this section, provided that in lieu of a licence such assignee shall be required to produce a receipt of payment issued by the Registrar of all arrears of licence duty and penalty, if any, ordered to be paid under this section, and the Registrar shall, under sub-section (2) of section 11, grant to such assignee a receipt of payment in lieu of the licence referred to therein.

[Refusal to grant licence.]

13. (1) The grant or conversion of a licence shall not be refused except on one or more of the following grounds, namely:—

(a) that the applicant or any person responsible or proposed to be responsible for the management of the applicant's money-lending business is by order of a Court under this Act disqualified for holding a licence;

(b) that the applicant has not complied with the provisions of this Act or of the rules made thereunder in respect of an application for the grant of a licence;

(c) that the applicant has made wilful default in complying with, or knowingly acted in contravention of any requirement of this Act or of the rules made thereunder or of the conditions of a previous licence;

(d) that the applicant or any person responsible or proposed to be responsible for the management of the applicant's money-lending business has been convicted of an offence under Chapter XVII or sections 465, 477 or 477A of the Indian Penal Code, provided that, having regard to the time which has elapsed since the conviction and the nature of the offence, the Provincial Government may, on application in the prescribed form accompanied by the prescribed fee, exempt any person from the operation of this ground, and on such exemption being granted in respect of any conviction, such conviction shall not be a ground under this section in any future application for the grant of a licence.

[Act XLV of 1860.]

(2) The Registrar refusing a licence under sub-section (1) shall record or cause to be recorded at his dictation a summary of the evidence adduced before him and his reasons for such refusal.

(3) An appeal shall lie from the order of the Registrar refusing a licence to the Competent Court.

[Application for cancellation of licence.]

14. (1) Any person may, on depositing by way of security for such compensation as may be payable under sub-section (2), the sum of fifty rupees, or if such person be a borrower from the money-lender, such sum or two-and-a-half per centum of the principal of his loan, whichever is less, make an application to the Competent Court for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act, conduct or omission

*The Bengal Money-lenders Bill, [1938.] 1939.**(Chapter III.—Registration and Licensing of Money-lenders.—**Clause 15.)*

for which the Registrar may under section 13 refuse the grant of a licence, and on the receipt of such application, the said Court shall hold such inquiry as it deems necessary.

(2) Such Court may direct that any person making an application under this section which is frivolous or vexatious shall pay to the money-lender against whom such application has been made compensation of such amount as the Court considers equitable.

[Court's power to cancel or suspend a licence.]

15. (1) A Competent Court in a proceeding under this Act or a Court trying a suit to which this Act applies or a Court passing an order of conviction upon a money-lender for an offence under this Act, if satisfied that the money-lender has committed such contravention of the provisions of this Act or of the rules made thereunder as, in its opinion, makes him unfit to carry on the business of money-lending—

(a) may order all licences held by such money-lender to be suspended for such period as the Court may think fit, or to be cancelled,

(b) may also declare such money-lender or any person responsible for the management of his money-lending business or both disqualified from holding a licence of any description for such period as the Court may think fit, and

(c) shall cause the particulars of the conviction, if any, and of any order passed by the Court under this sub-section to be endorsed on the licence or licences held by the money-lender or by any other person affected by such order :

Provided that where the licences held by a money-lender are suspended or cancelled or a money-lender is disqualified from holding a licence under this sub-section, he may appeal against such order to the Court to which an appeal ordinarily lies from the decision of the Court passing the order ; and the Court which passed the order or the Court of appeal may, if it thinks fit, stay the operation of the order under this sub-section pending the disposal of the appeal :

Provided further that where the Court of appeal sets aside or varies an order passed under this sub-section, it shall order that any endorsements made in pursuance thereof upon a licence held by a money-lender shall be erased or modified.

(2) The substance of any order passed under sub-section (1) or the proviso thereto shall be sent forthwith in the prescribed form by the Court passing the order to the Provincial Registrar and to the Registrar by whom the licence affected was granted for entry in the register and for such circulation to other Registrars as may be prescribed.

(3) Any licence required by a Court for endorsement under sub-section (1) shall be produced in such manner and at such time as the Court may direct by the person by whom it is held, and any person who without reasonable cause makes default herein shall be liable on conviction to a fine not exceeding fifty rupees for each day of the period during which the default continues.

(4) Powers conferred on a Court under sub-section (1) may be exercised by a Court in appeal or in revision.

(5) The Provincial Government may at any time, on application in the prescribed form accompanied by the prescribed fee, remove a disqualification declared under this section or otherwise modify such declaration, having regard to the time which has elapsed since the declaration and the circumstances under which it was made.]

The Bengal Money-lenders Bill, [1938.] 1939.(Chapter III.—Registration and Licensing of Money-lenders.—
Clauses 10—12A.)Application for
licences.

10. An application for the grant of a licence shall be made in the prescribed form and manner to the Sub-Registrar within the local limits of whose jurisdiction the money-lender has his principal place of money-lending business and shall contain such particulars as may be prescribed.

Entry in register
and grant of
licences.

11. On the receipt of an application under section 10 and on payment in the prescribed manner of the licence fee specified in section 9A, the Sub-Registrar shall, subject to the provisions of section 13, enter the name of the applicant in the register and grant the applicant a licence in such form as may be prescribed.

Stay of suit
when money-
lender does
not hold
licence.

12. (1) No Court shall pass a decree or order in favour of a money-lender in any suit to which this Act applies and which has been instituted by a money-lender, unless the Court is satisfied that at the time or times when the loan or any part thereof to which the suit relates was advanced, the money-lender held, if so required by this Act, an effective licence.

(2) If during the trial of a suit to which this Act applies, the Court finds that the money-lender had not held such licence, the Court shall before proceeding with the suit require the money-lender to pay in the prescribed manner and within the period to be fixed by the Court such penalty as the Court thinks fit, not exceeding three times the amount of the licence fee specified in section 9A.

(3) If the money-lender fails to pay the penalty within the period fixed under sub-section (2), the Court shall dismiss the suit: if the money-lender pays the penalty within such period, the Court shall proceed to hear the suit.

(4) The provisions of this section shall apply to a claim for a set off by or on behalf of a money-lender.

(5) In this section, the expression "money-lender" includes an assignee of a money-lender, if the Court is satisfied that the assignment was made for the purposes of avoiding the payment of licence fee and penalty which may be ordered to be paid under this section.

Disqualification
of persons for
holding a
licence.

12A. (1) A person shall be disqualified for holding a licence—

(a) if so ordered by a Court under section 15 for the period ordered;

(b) if he has been convicted of any offence specified in the Schedule to this Act.

(2) The Provincial Government may, at any time, on application in the prescribed form accompanied by the prescribed fee, remove a disqualification referred to in sub-section (1), having regard to the time which has elapsed since the order and the circumstances under which it was made or to the time which has elapsed since the conviction and to the nature of the offence.

The Bengal Money-lenders Bill, [1938.] 1939.(Chapter III.—Registration and Licensing of Money-lenders.)
(Clauses 12B, 13.)Proof of conviction or order for disqualification.

12B. Where it is required to be proved for the purposes of this Act that any person has been convicted of an offence specified in the schedule to this Act or has been disqualified by an order of a Court for holding a licence such conviction or order may be proved, in addition to any other mode provided by any law for the time being in force—

[Cf. Act V. 1917
1898,
s. 511.]

(a) by an extract certified under the signature of the officer having the custody of the records of the Court in which such conviction was had, or such orders were passed, to be a copy of the sentence or order, or

(b) in the case of a conviction, by a certificate signed by the officer in charge of the jail, in which the punishment or any part thereof was inflicted, or by the production of the warrant of commitment under which the punishment was suffered,

together with, in each of such cases, evidence as to the identity of the person so convicted or in respect of whom such order was passed.

Refusal to grant licence.

13. (1) The grant of a licence shall not be refused except on one or more of the following grounds, namely:—

(a) that the applicant has not complied with the provisions of this Act or of the rules made thereunder in respect of an application for the grant of a licence;

(b) that the applicant or any person responsible or proposed to be responsible for the management of the applicant's money-lending business is by order of a Court under this Act disqualified for holding a licence.

(2) A Sub-Registrar refusing a licence

(i) under clause (a) of sub-section (1) shall record his reasons for such refusal;

(ii) under clause (b) of sub-section (1) shall record the evidence of the disqualification.

(3) An appeal shall lie from the order of the Sub-Registrar refusing a licence to a Registrar authorised under section 6 to hear such appeal.

(4) A Registrar referred to in sub-section (3) may decide in such appeal as to the Sub-Registrar to whom application for a licence shall be made and his decision shall, subject to the provisions of sub-section (5), be final for all purposes, and shall be binding on such Sub-Registrar whether he be under the control of such Registrar or not.

(5) The Provincial Registrar may, on application made within thirty days from the date of the decision of the Registrar under sub-section (4), revise such decision.

(6) The procedure to be followed by the Provincial Registrar or by a Registrar in proceedings under this section shall be in accordance with rules prescribed under this Act.

The Bengal Money-lenders Bill, [1938.] 1939.(Chapter III.—Registration and Licensing of Money-lenders.—
(Clauses 13A—15.)Cancellation of
licence by a
Sub-Registrar.

13A. Any Sub-Registrar may cancel a licence entered in the register maintained by him if it is proved that the money-lender to whom it was issued was disqualified for holding a licence at the time when such licence was issued; and thereupon the provisions of clause (1) of sub-section (2) and of sub-section (3) of section 13 shall apply.

Power to
Registrar and
Sub-Registrar
to examine
any person
on oath.

13B. For the purposes of an inquiry under this Act relating to a disqualification for holding a licence a Registrar or a Sub-Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of enforcing the attendance of any person and examining him on oath.

Act V of
1938.Application for
cancellation of
licence.

14. Any person may make an application to the Competent Court for an order under section 15 on the ground that such money-lender has committed such contravention of the provisions of this Act or the rules made thereunder as render him unfit to carry on the business of money-lending, and on receipt of such application, the said Court shall hold such inquiry as it deems necessary.

Court's power
to cancel
a licence.

15. (1) A Competent Court on an application under section 14 or a Court trying a suit to which this Act applies or a Court passing an order of conviction upon a money-lender for an offence under section 39, if satisfied that the money-lender has committed such contravention of the provisions of this Act or of the rules made thereunder as, in its opinion, makes him unfit to carry on the business of money-lending—

(a) shall cause the particulars of the conviction, if any, and of any order passed by the Court under this sub-section to be endorsed on the licence held by the money-lender or by any other person affected by such order; and,

(b) may declare such money-lender or any person responsible for the management of his money-lending business or both disqualified for holding a licence for such period as the Court may think fit and shall cancel and impound the licence held by the money-lender;

Provided that except in the case of an order passed by a District Court, or by the Court of an Additional District Judge or by the Court of Small Causes of Calcutta the period of disqualification shall not exceed one year.

(1a) If a Court other than a District Court, or the Court of an Additional District Judge or the Court of Small Causes of Calcutta is of opinion that a period of disqualification longer than one year should be imposed, it shall record its opinion and forward the proceedings to the District Court having jurisdiction in the place where such Court is held.

(1b) The District Court to which such proceedings are submitted may, if it thinks fit, examine the parties and recall and examine any person who has already given evidence

*The Bengal Money-lenders Bill, [1938.] 1939.**(Chapter III.—Registration and Licensing of Money-lenders.—
Clauses 16—19.)*

in the case, and may call for and take any further evidence, and shall pass such order in the case as it thinks fit in accordance with the provisions of sub-section (1).

(1c) Any person aggrieved by the decision of a Court under this section may appeal against such order, in the case of the Court of Small Causes of Calcutta to the High Court and in the case of any other Court to the Court to which an appeal ordinarily lies from the decision of the Court passing the order; and the Court which passed the order or the Court of appeal may, if it thinks fit, stay the operation of the order under this sub-section pending the disposal of the appeal:

Provided that where the Court of appeal sets aside or varies an order passed under this sub-section, it shall order that any endorsements made in pursuance thereof upon a licence held by a money-lender shall be erased or modified.

(2) The substance of any order passed under sub-section (1), sub-section (1b) or sub-section (1c) shall be sent forthwith in the prescribed form by the Court passing the order to the Provincial Registrar and also together with the cancelled licence to the Sub-Registrar who maintains the register in which the licence affected has been entered for entry in the said register and for such circulation of the substance of the said order to other Registrars as may be prescribed.

(3) Any licence required by a Court for endorsement under sub-section (1) shall be produced in such manner and at such time as the Court may direct by the person by whom it is held, and any person who without reasonable cause makes default herein shall be liable on conviction to a fine not exceeding fifty rupees for each day of the period during which the default continues.

(4) Powers conferred on a Court under sub-section (1) may be exercised by a Court in appeal or in revision.

No compensation for cancellation [or suspension] of licence.

16. A person whose licence has been cancelled [or suspended] shall not be entitled to any compensation on such account nor to the refund of any licence [duty] fee paid in respect of such licence.

[Disqualification of person whose licence has been suspended or cancelled.]

17. A person shall be disqualified for holding a licence of any description—

- (a) if his licence has been cancelled, for the remainder of the year to which the cancelled licence relates, or
(b) if his licence has been suspended, during the period of such suspension.]

Licence [duty] fees and penalties recoverable as public demands.

18. All licence [duty] fees [including all arrears of such duty] and all penalties imposed under this Act shall be recoverable as public demands.

Offences in respect of licences.

19. (1) Whoever being disqualified for holding a licence, applies for or obtains a licence during the pendency of such disqualification, without disclosing the fact thereof, shall be punishable, on conviction, with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both, and any licence so obtained shall be of no effect.

The Bengal Money-lenders Bill, [1933.] 1939.*(Chapter III.—Registration and Licensing of Money-lenders.**—Chapter IV.—Regulation of Accounts of Money-lenders**—Clauses 20, 21.)*

(2) Whoever obliterates or causes to be obliterated or attempts to obliterate an endorsement entered on a licence under this Act shall be punishable, on conviction, with imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both,

CHAPTER IV.

Regulation of Accounts of Money-lenders.

Duty of
money-lender
to keep
accounts.

20. (1) Every money-lender shall keep and maintain at least a cash book, [and] a ledger and a receipt book in such form or forms as may be prescribed and shall write the same in Bengali in the regular course of business.

~~(2) Every money-lender shall—~~

(a) deliver to the borrower [within a reasonable time after] at the time a loan is advanced a statement in Bengali in such form as may be prescribed and [in the language in which he keeps his accounts] showing clearly and distinctly such details of the conditions of the loan and such other information connected therewith as may be prescribed;

~~(b) give to the borrower a plain and complete receipt for every payment made on account of any loan [within seven days of the date] at the time of such payment;~~

~~(c) upon repayment in full of a loan mark indelibly with words indicating full payment or cancellation every paper signed by the borrower, and discharge any mortgage, restore any pledge, return any note and cancel any assignment given by the borrower as security.~~

Money-lenders
to furnish
statements
of accounts.

21. (1) Every money-lender shall, within two months of the commencement of each year, furnish each of his borrowers with a legible statement of accounts in Bengali signed by him or his agent of the amount outstanding against the borrower: such statement shall be made out in the prescribed form [and in the language in which the accounts of the money-lender are ordinarily kept] and shall show—

(a) the amounts of principal and interest due to the money-lender at the commencement of the year;

(aa) the amounts of any sums advanced to the borrower from time to time since the commencement of the year and the dates on which they were advanced;

(b) the amounts of any payments received from the borrower since the commencement of the year in respect of loans outstanding and the dates on which they were made;

(c) the amount of every sum due from the borrower remaining unpaid and the date on which each such sum became due and the amount of interest accrued due and unpaid in respect of every such sum; and

(d) the amount of every sum not yet due which remains outstanding and the date upon which each such sum will become due.

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter IV.—Regulation of Accounts of Money-lenders.—
Clauses 22, 23.)

(2) In respect of any particular loan, whether advanced before or after the commencement of this Act, a money-lender shall, on ~~any reasonable~~ demand being made in writing by the borrower at any time while the loan or any portion thereof ~~remains~~ outstanding, ~~and on payment of the prescribed fee~~ supply to the borrower or to any person specified in that behalf in the demand, a statement in Bengali signed by the money-lender or his agent and showing in the prescribed form any or all of the particulars specified in subsection (1): ~~[such statement shall be supplied in the language in which the accounts of the money-lender are ordinarily kept, and on payment by the borrower of the additional fee prescribed, shall be accompanied by a translation of such statement in English or in such vernacular language as the borrower ordinarily uses.]~~

Provided that the money-lender shall not be bound to comply with such demand if he has complied with a demand made not more than three months prior to the date thereof.

(3) A money-lender shall, on a demand in writing by the borrower, ~~and on payment of the prescribed fee~~ supply to the borrower or to any person specified in that behalf in the demand a copy of any document ~~relating to~~ evidencing an agreement to secure repayment of a loan advanced to the borrower: ~~[or to any security therefor.]~~

Provided that a money-lender shall not be bound to comply with such a demand if he has previously furnished the borrower with such copy except on payment of such fee as may be prescribed.

(4) In this section the expression "year" means the ~~[year for which the accounts of the money-lender are ordinarily maintained in his own books.]~~ Bengali year commencing on the first day of Baisakh.

Borrower not bound by money-lender's statement of accounts.

22. A borrower to whom a statement of accounts has been furnished under section 21 shall not be bound to acknowledge or deny its correctness, and his failure to do so shall not, by itself, be deemed to be an admission of the correctness of the account.

Procedure in suits relating to loans by money-lenders.

23. Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies—

(a) a Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of sections 20 and 21; and

(b) if the Court finds that the provisions of either of the said sections have not been so complied with, it may, if the plaintiff's claim is established either wholly or in part, disallow the whole or any portion of the interest found due as may, in the circumstances of the case, appear reasonable to the Court, and may also disallow costs, or in computing the amount of interest due upon the loan, the Court may exclude any period for which the money-lender omitted to comply with the provisions of either of the said sections:

Provided that if the money-lender has, after the time specified in the said sections, given the receipt or furnished the statement, as the case may be, and if he satisfies the Court that he had sufficient cause for not doing so earlier, the Court may include any such period in computing the interest.

*The Bengal Money-lenders Bill, [1938.] 1939.**(Chapter IV.—Regulation of Accounts of Money-lenders.)**Chapter V.—Other Provisions relating to Money-lenders.—Clauses 24—26.)*

Explanation.—A money-lender who has given a receipt or furnished a statement in the prescribed form *{and manner}* shall be held to have complied with the provisions of section 20 or section 21, as the case may be, in spite of any errors and omissions in such receipt or statement if the Court finds that such errors and omissions are neither material nor made fraudulently.

[This Chapter not to apply to banks, companies, etc.]

[2A. *Nothing in this Chapter shall apply to a company, and the Provincial Government may, by notification in the Official Gazette, exempt from the operation of this Chapter any other body, corporate or incorporate.*]

CHAPTER V.

[Other Provisions relating to Money-lenders.] Assignment of loans.

Notice and information to be given on assignment of loans by [money-] lenders.

25. (1) Where any debt in respect of—

(Cf. 17 and 18 Geo. V, c. 21, s. 16.)

- (i) money advanced by a [money] lender, whether before or after the commencement of this Act, or
- (ii) interest on any such debt, or
- (iii) the benefit of any agreement made, or security taken, in respect of any such debt or interest—

is assigned to any assignee, the assignor (whether he is the [money] lender by whom the money was advanced or any person to whom the debt has been previously assigned) shall, before the assignment is made,—

- (a) give to the assignee notice in writing that the debt, interest thereon, agreement or security is affected by the operation of this Act, and
- (b) in the case where the debt is in respect of money advanced by a money-lender supply to the assignee all information necessary to enable him to comply with the provisions of this Act relating to the obligation to supply information as to the state of loans and copies of documents relating thereto.

(2) Any person who acts in contravention of any of the provisions of this section shall be liable to indemnify any other person who is prejudiced by the contravention and shall also be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

(3) In this section the expression "assigned" means assigned by an assignment inter vivos other than an assignment by operation of law; and the expressions "assignor" and "assignee" have corresponding meanings.

Application of Act as respects assignees.

26. (1) Subject as hereinafter provided, the provisions of this Act shall continue to apply as respects any debt due to a lender or money-lender in respect of loans advanced by him after the commencement of this Act or in respect of interest on such loans or of the benefit of any agreement made or security taken in respect of any such debt or interest, notwithstanding that the debt or the benefit of the agreement or security may have been assigned to any assignee, and except where the context otherwise requires, references in this Act to a lender or money-lender shall accordingly be construed as including any such assignee as aforesaid;

(Cf. 17 and 18 Geo V, c. 21, s. 17.)

The Bengal Money-lenders Bill, [1938.] 1939.(Chapter V.—Other Provisions relating to Money-lenders.)Clause (27.)

Provided that, notwithstanding anything contained in this Act except section 12—

(a) any agreement with, or security taken by, a lender or money-lender in respect of a loan advanced by him after the commencement of this Act shall be valid in favour of any bona fide assignee or holder for value without notice of any defect due to the operation of this Act and of any person deriving title under him; and

(b) any payment or transfer of money or property made bona fide by any person, whether acting in a fiduciary capacity or otherwise on the faith of the validity of any such agreement or security, without notice of any such defect shall, in favour of that person, be as valid as it would have been if the agreement or security had been valid;

but in every such case the lender or money-lender shall be liable to indemnify the borrower or any other person who is prejudiced by virtue of this section, and nothing in this proviso shall render valid an agreement or security in favour of, or apply to proceedings instituted by, an assignee or holder for value who is himself a money-lender.

(2) Nothing in this section shall render valid for any purpose any agreement, security or other transaction which would, apart from the provisions of this Act, have been void or unenforceable.

[Provisions as to insolvency proceedings for loans by money-lenders.]

(27. (1) Where a debt due to a money-lender in respect of a loan advanced by him after the commencement of this Act includes interest, that interest shall, for the purposes of the provisions of the Presidency-towns Insolvency Act, 1909, the Provincial Insolvency Act, 1920 and the Bengal Agricultural Debtors Act, 1935, relating to the presentation of an insolvency petition or application for settlement of debts, to voting at meetings, compositions and schemes of arrangement and dividend and notwithstanding anything to the contrary contained in the said Acts, be calculated at a rate not exceeding five per centum per annum, but nothing in the foregoing provision shall prejudice the right of the money-lender to receive out of the estate, after all the debts proved in the estate have been paid in full, any higher rate of interest to which he may, subject to the principles contained in Chapter VI, be entitled.

[(Of 17 and 18 Geo. V. c. 21, s. 9.) III of 1909. V of 1920. Ben. Act VII of 1936.]

(2) Notwithstanding anything contained in the above-mentioned Acts, no proof of a debt due to a money-lender shall be admitted for any of the purposes of the said Acts, unless the affidavit verifying the debt is accompanied by a statement showing in detail, in addition to such particulars as the said Acts may require,—

(a) the amount of the sums actually lent to the debtor and the dates on which they were lent, and the amount of every payment already received by the money-lender in respect of the loan and the date on which each such payment was made; and

(b) the amount of the balance which remains unpaid, distinguishing the amount of the principal from the amount of interest; and

(c) where the amount of interest included in the unpaid balance has been calculated at a rate exceeding five per centum per annum, the amount of interest which would be so included if it were calculated at the rate of five per centum per annum.

(3) Rules for the purpose of carrying into effect the objects of this section may be made under section 112 of the Presidency-towns Insolvency Act, 1909, section 79 of the Provincial

[(III of 1909. V of 1920. Ben. Act VII of 1936.)]

*The Bengal Money-lenders Bill, [1938.] 1939.**(Chapter VI.—Interest and other charges.—Clauses 28—30.)**Insolvency Act, 1920, and section 55 of the Bengal Agricultural Debtors Act, 1935, by the authorities respectively specified in those sections.]*

CHAPTER VI.

*Interest and other charges.**[Limitation as to amount of interest recoverable.]**28. Notwithstanding anything contained in any law for the time being in force or in any agreement, no Court shall, in any suit in respect of a loan whether such suit was instituted before or after the commencement of this Act, decree on account of arrears of interest a sum greater than the principal of the original loan.**[Limitations as to rate of interest recoverable.]**29. Notwithstanding the provisions contained in the proviso to section 30 or in any other law for the time being in force or in any agreement, no Court shall, in any suit to which this Act applies, decree interest at rates per annum exceeding in the case of—*

- (i) unsecured loans in kind, twenty-five per centum,*
- (ii) secured loans in kind, fifteen per centum,*
- (iii) other unsecured loans, twelve per centum, and*
- (iv) other secured loans, nine per centum.]*

*Limitations as to amount and rate of interest recoverable.**28. Notwithstanding anything contained in any law for the time being in force, or in any agreement,**(1) no borrower shall be liable to pay after the commencement of this Act—*

- (a) any sum in respect of principal and interest which together with any amount already paid or included in any decree in respect of a loan exceeds twice the principal of the original loan;*
- (b) on account of interest, a sum greater than the principal of the loan outstanding on the date up to which such liability is computed;*
- (c) interest at a rate per annum exceeding in the case of—*
 - (i) unsecured loans, ten per centum simple,*
 - (ii) secured loans, eight per centum simple,*

*whether such loan was advanced or such amount was paid or such decree was passed or such interest accrued before or after the commencement of this Act;**(2) no borrower shall after the commencement of this Act, be deemed to have been liable to pay before the date of such commencement in respect of interest paid before such date or included in a decree passed before such date, interest at rates per annum exceeding those specified in sub-clause (c) of clause (1).**Prohibition of interest on decretal amount.**29. Notwithstanding anything contained in any law for the time being in force but subject to the provisions of clause (a) of sub-section (1) of section 33, no Court shall, in any decree passed in any suit to which this Act applies, allow any interest on the decretal amount.**[Prohibition of compound interest and provision as to default.]**30. Any agreement made after the commencement of this Act for a loan shall be illegal in so far as it provides directly or indirectly for the payment of compound interest:**Provided that provision may be made in any such agreement that if default is made in the payment upon the due date*

The Bengal Money-lenders Bill, [1938.] 1939.

(Chapter VI.—Interest and other charges.—Chapter VII.—
Miscellaneous—Clauses 31—33.)

of any sum payable to the lender under the agreement, whether in respect of principal or interest or both, the lender shall be entitled to charge simple interest on that sum from the date of default until the sum is paid at a rate not exceeding the rate recoverable in respect of interest on the principal, and any interest so charged shall not be reckoned for the purposes of this Act, save those of section 28, as part of the interest charged in respect of the loan.]

Computation
of interest
on loans in
kind.

31. In the case of loans in kind, the money value of the commodity at the time when, and in the locality where, the loan was advanced shall, for the purposes of this Act, be deemed to be the principal of the loan, and in determining the amount [of interest] which may, subject to the provisions of this chapter, be decreed in respect of such a loan, the Court shall take into consideration the market value of the commodity in the said locality at the [due] date or dates of repayment.

Prohibition
of charges
for expenses
on loans.

32. Any agreement between a lender and a borrower or intending borrower for the payment to the lender of any sum on account of costs, charges or expenses incidental or relating to the negotiations for, or the granting of, the loan or proposed loan, shall be illegal, and if any sum is paid to a lender by the borrower or intending borrower as, for or on account of any such costs, charges or expenses, that sum shall be recoverable as a debt due to the borrower or intending borrower, or in the event of the loan being completed, shall, if not so recovered, be set off against the amount actually lent and that amount shall be deemed to be reduced accordingly.

[Cf. 17 and
18 Geo.
V, c. 21,
s. 12.]

[Provided that nothing in this section shall debar a lender from recovering the costs of investigating title, of stamp duty and registration of documents and other usual out-of-pocket expenses in cases where the agreement includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed to such expenditure and the reimbursement thereof, nor from recovering such costs, charges or expenses as are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force.]

[1V of
1882.]

CHAPTER VII.

Miscellaneous.

[Power to
Court to direct
instalments.]

33. (1) Notwithstanding anything contained in any law for the time being in force, the Court may—

- (a) at any time, on the application of a judgment-debtor and after notice to the decree-holder, order that the amount of any decree passed against the judgment-debtor, whether before or after the commencement of this Act, in respect of a loan, shall, subject to such conditions as the Court may impose, be payable in such number of instalments and on such dates as the Court thinks fit, having regard to the circumstances of the judgment-debtor and the amount of the decree, and

- (b) during the pendency of any inquiry under clause (a), order, subject to such conditions as the Court may impose, the stay of execution of the decree.

[Cf. C. P.
Act XIII
of 1934,
s. 11.]

(2) Any order under this section shall be deemed to have been passed under section 47 of the Code of Civil Procedure, 1908.

[Act V of
1908.]

*The Bengal Money-lenders Bill, [1938.] 1939.**(Chapter VII.—Miscellaneous.—Clause 33.)**[Reopening of transactions.]*

34. (1) Notwithstanding anything contained in any law for the time being in force, the Court may, in any suit to which this Act applies, whether heard *ex parte* or otherwise, exercise any or all of the following powers, namely, may—

- (a) reopen any transaction or any account already taken between the parties ;
- (b) take an account between the parties ;
- (c) release the debtor of all liability in respect of any interest in excess of any of the limits specified in Chapter VI ;
- (d) if anything has been paid or allowed in account in respect of such liability, order the lender to repay any sum which the Court considers to be repayable in respect thereof :

Provided that in the exercise of these powers, the Court shall not do anything which affects any decree of a Court nor reopen any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim, at a date more than three years from the institution of the said suit.

(2) In this section the expression "suit to which this Act applies" includes a proceeding in respect of any application relating to the admission or amount of a proof of a loan advanced after the commencement of this Act in any insolvency proceedings.]

Power of Court to direct payment by instalments.

33. (1) Notwithstanding anything contained in any law for the time being in force, or in any agreement, the Court shall—

- (a) in suits in respect of loans to which the provisions of Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908 apply, on the application of the defendant and after hearing the plaintiff, fix, at the time of the passing of the preliminary decree under rule 2 or rule 4 of the said Order to the effect mentioned in sub-clause (i) of clause (c) of sub-rule (1) of the said rule 2, a date within a period not exceeding ten years from the date of such decree for payment of the amount found or declared due under sub-rule (1) of that rule or sub-rule (1) of rule 4 of the said Order, as the case may be, and further direct that the payment of the said amount is to be made, subject to such conditions as the Court may impose, in such number of instalments and on such dates within the date so fixed as the Court thinks fit having regard to the circumstances of the defendant and the amount of the decree and that in default of payment of any of the said instalments that instalment shall carry interest at the rate of three per cent. per annum until realisation ;
- (b) in suits in respect of loans other than those referred to in clause (a)—
 - (i) on the application of a defendant and after hearing the plaintiff, order at the time of the passing of the decree, or

Act V of 1908.

The Bengal Money-lenders Bill, [1938.] 1939.(Chapter VII.—Miscellaneous—Clause 34.)

(ii) on the application of a judgment-debtor against whom a decree in such suit has been passed whether before or after the commencement of this Act and after notice to the decree-holder, order at any time after the decree has been passed,

that the amount of the decree shall, subject to such conditions as the Court may impose, be payable without interest within a period not exceeding twenty years from the date of the decree in such number of instalments and on such dates as the Court thinks fit, having regard to the circumstances of the defendant or the judgment-debtor and the amount of the decree ;

(c) during the pendency of any inquiry under sub-clause (ii) of clause (b) order, subject to such conditions as the Court may impose, the stay of execution of the decree.

(2) Where an order for payment by instalment has been made under clause (a) of sub-section (1), the Court shall not allow any extension of time under sub-rule (2) of rule 2 of the said Order for the payment of the amount found or declared due under sub-rule (1) of that rule or under sub-rule (2) of rule 4 of the said Order for the payment of the amount found or declared due under sub-rule (1) of that rule, as the case may be.

(3) Where an order for payment by instalments has been made under clause (b) of sub-section (1), then, notwithstanding anything contained in any law for the time being in force, the Court shall further order either at the time of the passing of the decree or thereafter, as the case may be, that if default is made in making payment of any of the instalments ordered, that instalment and not the whole of the decretal amount shall be recoverable under the decree after the date of such default.

(4) Any order made under sub-clause (ii) of clause (b) of sub-section (1) shall be deemed to have been passed under section 47 of the Code of Civil Procedure, 1908.

Act V of
1908.

Re-opening of
transactions.

34. (1) Notwithstanding anything contained in any law for the time being in force, the Court may, in any suit to which this Act applies, whether heard *ex parte* or otherwise, exercise any or all of the following powers, namely, may—

- (a) re-open any transaction, take an account between the parties ;
- (b) notwithstanding any agreement, purporting to close previous dealings and to create new obligations, re-open any account already taken between the parties ;
- (c) release the borrower of all liability in excess of the limits specified in clauses (1) and (2) of section 28 ;
- (d) if anything has been paid or allowed in account on or after the 1st day of January 1939 in respect of the liability referred to in clause (c), order the lender to repay any sum which the Court considers to be repayable in respect thereof ;

The Bengal Money-lenders Bill, [1938.] 1939.(Chapter VII.—Miscellaneous.—Clause 34.)

(e) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any loan, and if the lender has parted with the security, order him to indemnify the borrower in such manner and to such extent as it may deem just :

Provided that in the exercise of these powers the Court shall not—

(i) re-open any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom they claim at a date more than twelve years from the date of the transaction ;

(ii) do anything which affects any decree of a Court other than a decree passed on or after the 1st January, 1939 and before the commencement of this Act, or which affects an award made under the Bengal Agricultural Debtors Act, 1935.

Ben. Act
VII of
1936.

(2) In this section the expression " suit to which this Act applies " includes a proceeding in respect of any application relating to the admission or amount of a proof of a loan advanced before or after the commencement of this Act in any insolvency proceedings.

(3) This section shall apply to any suit whatever its form may be if such suit is substantially one for the recovery of a loan or for the enforcement of any agreement or security in respect of a loan or for the redemption of any such security.

(4) Nothing in this section shall affect the rights of any assignee or holder for value who satisfies the Court that the assignment to him was *bona fide*, and that he had not received the notice referred to in clause (a) of sub-section (1) of section 25.

(5) Notwithstanding anything contained in any law for the time being in force,

(a) the Court which passed the decree may, in respect of a decree passed on or after the 1st January 1939 and before the commencement of this Act, in any suit to which this Act applies, exercise the like powers as may be exercised under sub-section (1)—

(i) in any proceedings in execution of such decree, or

(ii) on an application for review of such decree made within one year of the date of commencement of this Act, and the provisions of rules 2 and 5 of Order XLVII of the First Schedule to the Code of Civil Procedure, 1908, shall not apply to any such application ;

Act V of
1908.

(b) any Court before which an appeal is pending in respect of a decree referred to in clause (a) may either itself exercise the like powers as may be exercised under sub-section (1), or refer the case to the Court which passed the decree directing such Court to exercise such powers and such

The Bengal Money-lenders Bill, [1938.] 1939.(Chapter VII.—Miscellaneous.—Clauses 34A—36.)

Court shall after exercise thereof return the record with the additional evidence, if any, taken by it and its findings and the reasons therefor to the Appellate Court and thereupon the provisions of rule 26 of Order XLI of the First Schedule to the Code of Civil Procedure, 1908, shall apply.

Prohibition of execution of decrees by arrest and detention in prison.

Inquiry for taking accounts and declaring the amount due.

34A. Notwithstanding anything contained in any law for the time being in force, no Court shall order execution of a decree passed in any suit to which this Act applies by arrest and detention in prison of the judgment-debtor.

35. (1) Any borrower may make an application at any time to a Court which would have jurisdiction to entertain a suit by the lender for the recovery of the principal and interest of [the loan,] a loan made before or after the commencement of this Act for taking accounts and for declaring the amount due to the lender. Such application shall be in the prescribed form and shall be accompanied by [the prescribed fee,] a fee of one rupee, and on receipt of such application, the Court shall cause a notice thereof to be served on the lender.

(2) The Court shall thereafter take an account of the transactions between the parties and shall declare the amounts, if any,—

(a) payable and already due,

(b) payable but not yet due

by the borrower to the lender, whether as principal or interest, or both. In taking accounts under this section the Court shall follow the same procedure as it does in regard to civil suits and, so far as may be, the provisions of Chapters IV, VI and VII.

[(3) Where any of the principal or interest or both of a loan has been declared under this section to be payable and already due, and the lender not later than one month after the date of the declaration pays the court-fee payable on a plaint in a suit for the recovery of the amount declared due, the Court shall endorse the order of declaration with the statement that such court-fee has been paid, and the order of declaration shall thereupon become executable as a decree of the Court.]

(4) A proceeding under this section shall be deemed to be a suit for the purposes of section 11 of the Code of Civil Procedure, 1908, and a declaration under this section shall be subject to appeal, if any, as if it were a decree of the Court, and every decision in appeal shall be subject to appeal to the High Court in the same manner as a decree passed in appeal.

Act V of
1908.

Deposit in Court of money due to lender.

36. (1) Where any sum of money has been declared under sub-section (2) of section 35 to be payable by the borrower to the lender as principal or interest or both or [W] where a borrower has sent to a lender by postal money order any sum of money due from him to the lender in respect of a loan and the lender has refused to accept the same, the borrower may apply in the prescribed manner to the Civil Court of the lowest grade having jurisdiction over the place where he resides for permission to deposit the said sum in Court to the account of the lender, and the Court [on receiving the prescribed fee from the borrower] shall keep the said sum in deposit.

(2) The Court shall thereupon cause notice of the deposit to be served on the lender, and the lender may, on presenting

The Bengal Money-lenders Bill, [1938.] 1939.(Chapter VII.—Miscellaneous.—Clauses 37, 38.)

a petition, verified as for a plaint and [accompanied by the prescribed fee,] stating the sum then due in respect of the loan and his willingness to accept the money so deposited, receive the sum:

Provided that in accepting any sum deposited under this section, a lender shall not be bound by any statement made by the borrower in depositing the same.

(3) Notwithstanding any agreement between the parties [W] when the borrower has deposited in Court under this section any sum due in respect of the loan, if such sum is in payment of the principal or any part thereof, the interest on such principal or part shall [notwithstanding any agreement between the parties,] cease from the date of the service of notice on the lender under sub-section (2).

(4) Nothing in this section shall affect the operation of sections 83 and 84 of the Transfer of Property Act, 1882, in IV of 1882. regard to loans to which those sections apply.

Entry of an amount in a bond, etc., different to the amount actually lent to be an offence.

37. (1) No lender shall take from a borrower or intending borrower any note, promise to pay, power of attorney, bond or security which does not state the actual amount of the loan, the rate of interest charged and the time, if any, within which the principal is stipulated to be repaid in full, or which states any of such particulars incorrectly, nor shall he take from any borrower or intending borrower any instrument in which blanks are left to be filled in at a later date.

(2) Whoever intentionally contravenes the provisions of sub-section (1) shall, on conviction, be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(3) Notwithstanding anything contained in any law for the time being in force, any such note, promise, power of attorney, bond, security or document shall be void and unenforceable.

Payment of loan in cash to a borrower to be made in the presence of the registering officer.

37A. Where a loan is advanced on a document which is registered under the Indian Registration Act, 1908, the loan, or as much of it as may be payable in cash, shall be paid to the borrower or his duly authorised agent in the presence of the registering officer who will register the document and the said registering officer shall make an endorsement to that effect on the document.

Act XVI of 1908.

Chapters III and IV not to apply to commercial loans.

37B. (1) The provisions of Chapters III and IV shall not apply to a commercial loan.

(2) For the purposes of sub-section (1) "commercial loan" means a loan advanced to a person other than an agriculturist to be used by such person for the purposes of any business or concern relating to trade, commerce, industry, mining, insurance, transport, banking or entertainment, or to the occupation of wharfinger, ware-houseman or contractor or any other venture of a mercantile nature, whether as proprietor or principal or agent or guarantor.

Penalty for molestation.

38. (1) Whoever molests, or abets the molestation of, a debtor for the purpose of recovering or attempting to recover, a debt shall be punishable, on conviction, with imprisonment

The Bengal Money-lenders Bill, [1938.] 1939.(Chapter VII.—Miscellaneous.—Clause 39.)

[*of either description*] which may extend to [*three months*] one year or with fine which may extend to [*five hundred*] one thousand rupees or with both.

Explanation.—For the purposes of this section, a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing,—

- (a) obstructs or uses violence to or intimidates such other person, or
- (b) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or
- (c) loiters or does any similar act at or near a house, building or place where such other person resides or works or receives his pay or wages or carries on business or happens to be—

shall be deemed to molest such other person :

Provided that a person who attends at or near such house, building or place for the purpose only of making a formal demand for repayment of a loan due or of obtaining or communicating information shall not be deemed to molest.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this section shall be cognisable and bailable.

Act V of
1898.

(3) Nothing in this section shall be deemed to restrict the provisions of the Bengal Workmen's Protection Act, 1934.

Ben. Act
IV of
1935.

[General provision regarding penalties.]

39. Whoever makes default in complying with, or acts in contravention of, any provision of this Act, and if the money-lender is—

- (a) an individual, such individual, or
- (b) an undivided Hindu family, the manager and all adult coparceners of such family, or
- (c) a body corporate, the directors, the manager and all other officers of such body, or
- (d) an unincorporated body, all members of such body,

who is or are a party to such default or contravention, shall, if no specific penalty has been provided in this Act, be punishable—

- (i) for the first offence, with fine which may extend to two hundred rupees,
- (ii) for the second offence, with fine which may extend to five hundred rupees, and
- (iii) for any subsequent offence, with rigorous imprisonment which may extend to three months and shall also be liable to fine.]

General provisions regarding penalties.

39. (1) Whoever makes default in complying with, or acts in contravention of, any provision of this Act, and if the money-lender is—

- (a) an individual, such individual, or
- (b) an undivided Hindu family, the manager, or
- (c) a body corporate, the directors, the manager and all other officers of such body, or
- (d) an unincorporated body, all members of such body,

who knowingly and wilfully makes, authorises or permits such default or contravention, shall, where a specific penalty

The Bengal Money-lenders Bill, [1938.] 1939.(Chapter VII.—Miscellaneous.—Clauses 40, 41.)

has been provided in this Act, be punishable under the provisions of this Act providing such penalty, and where no such specific penalty has been provided, be punishable—

- (i) for the first offence, with fine which may extend to two hundred rupees,
- (ii) for the second offence, with fine which may extend to five hundred rupees, and
- (iii) for any subsequent offence, with rigorous imprisonment which may extend to three months and shall also be liable to fine.

(2) No Court shall take cognizance of an offence punishable under sub-section (1) except on the complaint in writing of the Provincial Registrar or a Registrar.

(3) The Provincial Registrar may order the withdrawal of a complaint made under sub-section (2), and, if he does so, shall forward a copy of such order to the Court, and upon receipt thereof by the Court, no further proceedings shall be taken on the complaint.

(4) No Court inferior to that of a Presidency Magistrate or a Subdivisional Magistrate, or a Magistrate of the first class shall try an offence punishable under sub-section (1).

Protection to persons acting under this Act.

40. No suit, prosecution or proceeding shall lie against any servant of the Crown for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

41. (1) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for the following matters, namely:—

- (a) the control to be exercised by the Provincial Registrar over [other] the Registrars and Sub-Registrars and by a Registrar[s] [of particular areas over Registrars of other areas] over the Sub-Registrars;
- (b) the form in which registers under section [6] 7 shall be maintained;
- (c) the form and manner in which an application for the grant [or conversion] of a licence shall be made, and the particulars to be therein contained;
- [(d) the date before which an application for a first grant of licence shall be made;]
- (e) the manner in which licence [duty] fees and penalties shall be paid;
- (f) the form [and conditions] of licences;
- (g) the Registrar to whom cases shall be forwarded under the proviso to clause (i) of sub-section (3) of section 11;
- (h) the form of, and the fee payable on, an application [under the proviso to clause (d) of sub-section (1) of section 13 or] under sub-section [(5)] (2) of section [15] 12A;
- [(hh) the procedure to be followed by the Provincial Registrar in proceedings under section 13;
- [(i) the form and manner in which a Court shall communicate information under sub-section (3) of section 12 or sub-section (2) of section 15*];

*The Bengal Money-lenders Bill, [1938.] 1939.**(Chapter VII.—Miscellaneous.—Clause 42—The Schedule.)*

- (i) the form in which a Court shall send the substance of the order referred to in sub-section (2) of section 15, and the method of circulation of the same to other Registrars ;
- (j) the form in which a money-lender shall maintain his cash book, [and] ledger and receipt book ;
- (k) the form of, and the particulars to be contained in the statement to be delivered under sub-section (2) of section 20 ;
- (l) the form of the statements to be furnished under section 21 and the fee[s] to be paid under the proviso to sub-section[s] [(2) and] (3) of that section ;
- (m) the form of [and the fee payable on] an application under section 35 ; and
- (n) the manner in which an application under section 36 shall be made. [and the fees payable under sub-sections (1) and (2) of that section.]

[(3) *Rules made under this section shall be subject to the condition of previous publication in the Official Gazette.*]

Bengal Act VII of 1933 not to apply to loans to which this Act applies.

42. The Bengal Money-lenders Act, 1933, shall not apply to any loan to which this Act applies nor to any transaction connected with such loan.

THE SCHEDULE.

[(See sections 9, 11 and 12.)]

<i>Designation of licence.</i>	<i>Amount of licence duty payable.</i>
<i>Police-station ..</i>	<i>Two rupees.</i>
<i>Subdivisional ..</i>	<i>One rupee and eight annas multiplied by the number of police-stations in the sub-division.</i>
<i>District ..</i>	<i>One rupee multiplied by the number of police-stations in the district.</i>
<i>Mufassil ..</i>	<i>One hundred rupees.</i>
<i>Calcutta, first class ..</i>	<i>Seventy-five rupees.</i>
<i>Calcutta, second class ..</i>	<i>Twenty-five rupees.</i>
<i>Calcutta, third class ..</i>	<i>Ten rupees.</i>
<i>Provincial ..</i>	<i>One hundred and fifty rupees.</i>
<i>Conversion of licence ..</i>	<i>The difference between the duty payable on the licence held and on that into which it is sought to be converted plus one rupee.]</i>

[See sections 12A (1) (b) and 12B.]

Any offence punishable under any of the following sections of the Indian Penal Code, namely, sections 379 to 382, 384 to 389, 392 to 404, 406 to 409, 411 to 414, 417 to 424, 449, 450, 451 (with intent to commit theft), 454 (with intent to commit theft), 455, 457 (with intent to commit theft), 458 to 462, 465, 477 and 477A.

K. ALI AFZAL,
Secy. to the Bengal Legis. Assembly.

**BENGAL LEGISLATIVE ASSEMBLY
DEPARTMENT.****NOTIFICATION.**

No. 850L.A.—22nd February 1939.—The following note of reservation by the Hon'ble Nawab Musharruf Hossain, Khan Bahadur, on the report of the Select Committee on the Bengal Money-Lenders Bill, 1938, is hereby published for general information:—

Note of Reservation by the Hon'ble Nawab Musharruf Hossain, Khan Bahadur, on the Bengal Money-Lenders Bill, 1938, as amended by the Select Committee.

The Bill has been materially altered in the Select Committee. I reserve the right of freedom of action in respect of it.

K. ALI APZAL,
Secy. to the Bengal Legis. Assembly.

X9(J): (2231)
F)

BILL No. XVI OF 1927.

An Act to prevent the excessive sub-division of agricultural land and to promote the consolidation of such land



(As published in the "Bombay Government Gazette" of the 7th July 1927.)

5 & 6 Geo. V, c. 61.

WHEREAS it is expedient to prevent the excessive sub-division of agricultural land and to promote the consolidation of such land; and whereas the previous sanction of the Governor General required by section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

PART I

PRELIMINARY

- 1. This Act may be called the **Bombay Small Holdings Act, 1927**.
Short title.
- 2. It extends to the whole of the **Bombay Presidency** except the **City of Bombay, Aden, Sind** and the scheduled District of the **Mehwassi Chiefs' villages** as defined in the **Scheduled Districts Act, 1874**:
Extent.
Provided that the Governor in Council may, from time to time, by notification in the *Bombay Government Gazette*, exclude any area or class of areas from the operation of all or any of the provisions of this Act.
- 3. (1) In this Act, unless there is something repugnant in the subject or context,—
Definitions.
 - (a) "committee" means a committee appointed under section 4;
 - (b) "fragmented holding" means any plot of land existing in any local area at the time this Act comes into force which is of less extent than the standard unit; "new fragmented holding" means any plot of land less in extent than the standard unit which comes into

XIV of 1874.

existence in any local area after this Act comes into force;

(c) "land" means unalienated land used wholly or principally for agricultural purposes; 20

(d) "local area" means any area for which the Commissioner has determined standard units, under section 8;

(e) "neighbour" means the occupant of any land which is contiguous to a fragmented holding and includes a mortgagee in possession; 25

(f) "prescribed" means prescribed by or under this Act or by rules made thereunder; 30

(g) "standard unit" means the area of land which has been determined by the Commissioner under section 8 as the minimum necessary for profitable cultivation in the case of any class of soil in any local area. 35

(2) Any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not herein defined shall, subject to the provisions of this Act, be deemed to have the meaning assigned to it by that Code. 40 45

Bom. V of 1879.

4. The Governor in Council shall, as soon as practicable, after the coming into operation of this Act, appoint for each district a committee consisting of the Collector, who shall be the chairman, the Deputy Director of Agriculture and three members of the District Local Board. The members of the District Local Board shall be selected and the vacancies, if any, in their numbers shall be filled in the prescribed manner. 5 10

5. The committee shall provisionally determine for the whole or any portion of the district and for each class of soil, the minimum extent that can be cultivated profitably as a separate plot. 5

6. The committee shall then publish its proposals in the prescribed manner and shall invite objections which should be submitted within one month from the date of publication. 5

7. The committee shall, after
Committee to submit proposals to the Commissioner. considering the objections, if any, and after
 5 making such further enquiries as it may deem fit, submit its proposals to the Commissioner through the Collector.

8. The Commissioner shall there-
Commissioner to determine standard units. upon determine finally and publish in the pre-
 5 scribed manner the standard units, as recommended by the committee, or with such modifications as he thinks fit.

9. (1) After the standard units
Entry in the Record of Rights. are finally determined an entry shall be made in
 5 the Record of Rights in the case of every plot of land less in extent than the standard unit that it is a fragmented holding.

(2) Within two months from the
 10 date of publication of the standard units under section 8, a notice shall be given in writing by the village accountant to the occupants of all such fragmented holdings that such
 15 an entry has been made.

10. (1) From the date of such
Restrictions on alienation of fragmented holding. entry in the Record of Rights no such
 5 fragmented holding shall be sold, exchanged, mortgaged with possession, leased or otherwise transferred except in accordance with the provisions of this Act.

10 (2) Every alienation of such fragmented holding contrary to the provisions of this Act shall be void.

11. Any person, hereinafter called
Notice to be given of transfer of fragmented holding. the transferor, desiring to
 5 wise than by lease or mortgage without possession, to any person other than a neighbour, any fragmented holding shall give notice by registered
 10 post to the Mamlatdar, stating the conditions of the proposed transfer and the terms offered. The Mamlatdar shall, within one month of the receipt of such notice, give notice to all the neighbours, in the
 15 manner prescribed in section 191 of the Land Revenue Code, 1879, of the proposed transfer and of the

conditions and terms mentioned in the notice.

12. (1) Any neighbour shall thereupon have Neighbour's rights of pre-emption. the right to claim the fragmented holding on the terms mentioned in the notice given by the transferor under section 11. Such right is hereinafter called 'the right of pre-emption.' 5

(2) When more than one neighbour desire to exercise the right of pre-emption, the transferor shall dispose of his holding among them as he thinks fit. 10

Provided that when more than one neighbour desire to exercise their right of pre-emption, priority shall be given to the neighbour or neighbours whose original holding, being less in extent than the standard unit, shall, when combined with the fragmented holding, equal or exceed the standard unit: Provided further that when more than one neighbour are entitled to priority under the last preceding proviso, the transferor shall dispose of his holding among them as he thinks fit. 15
20
25

(3) The claim by a neighbour shall be made by notice sent by registered post to the transferor and to the village accountant of the village in which the fragmented holding is situated. 30

13. If within 30 days of the issue of the notice by the Mamlatdar, When fragmented holding may be sold to a person other than a neighbour. under section 11, no neighbour has notified his desire to exercise the right of pre-emption in the manner prescribed in section 12, the transferor may transfer the fragmented holding to any person other than a neighbour on the terms mentioned in the notice under section 11. 5
10

14. (1) If any fragmented holding is transferred in contravention of the provisions of section 11 or section 12 or on terms other than those mentioned in the notice under that section, any neighbour entitled to purchase it in preference to the transferee may institute a suit in the civil court to enforce his right of pre-emption. Suit to enforce right of pre-emption: Limitation. 5
10

(2) In every such suit the plaintiff may request the court to determine the terms on which the fragmented holding has been transferred and to put him in possession of the same on his agreeing to the same terms.

(3) If the transfer has taken place in contravention of the provisions of section 11 or section 12 and the plaintiff does not agree to take over the fragmented holding on the terms on which it has been actually transferred to the third party, the court shall put him in possession of the same on the terms mentioned in the notice given by the transferor under section 11. If no such notice was given or if the plaintiff is not willing to take possession on the terms mentioned in such notice the court shall either declare the transfer void, or pass a decree on the defendant agreeing to hand over the fragmented holding to the plaintiff on terms agreeable to both parties.

(4) The period of limitation in a suit to enforce the right of pre-emption under this section shall, notwithstanding anything contained in the Indian Limitation Act, 1908, be one year from the date of the transfer.

IX of 1908.

15. No fragmented holding shall be leased to any person other than the occupant or the lessee of a contiguous plot.

16. If after the standard units have been determined under section 8 in any local area any plot less in extent than the standard unit comes into existence, such a plot shall be entered in the Record of Rights as a 'new fragmented holding' and written notice of such an entry shall be given by the village accountant to the occupant of such a holding and to such other persons as appear from the Record of Rights to have an interest therein within 15 days of the date of such an entry.

17. From the date of such an entry in the Record of Rights no new fragmented holding shall be sold, exchanged, mortgaged, leased or otherwise transferred except to the

occupant, or in the case of a lease, to the lessee or owner of a contiguous holding. 10

18. Any lease or other transfer of a new fragmented holding shall be void to the extent to which it contravenes the provisions of this Act. 5

Transfer in contravention of Act void.

19. From the date of the entry made under section 16 no new fragmented holding shall be cultivated unless it is combined with a contiguous plot or plots so that the total area so cultivated shall be equal to or exceed the standard unit. 5

Cultivation of new fragmented holding below standard unit prohibited.

20. Nothing in this Act shall debar a person or persons who may have obtained possession of a fragmented holding or of a new fragmented holding in contravention of the provisions of this Act from suing the transferor for any consideration he or they may have given. 5 10

Transferee of holding illegally transferred may sue for consideration given.

21. (1) At the partition of an estate paying land-revenue to Government in any local area for which standard units have been fixed, the Collector shall so divide the estate as not to leave any fragmented holding or to create any new fragmented holding. The land shall first be partitioned among those whose shares equal or exceed the standard units. If any portion is left over, it shall be divided into as many shares as can be made without creating a new fragmented holding and allotted to those of the remaining sharers whose shares are the largest. The rest of the sharers, if any, shall be compensated in money for their shares on a valuation made by the Collector and distributed *pro rata* among the sharers provided with land in the prescribed manner. 5 10 15 20

* Partition of estates paying land-revenue to Government.

(2) If there are several sharers equally entitled and there is not enough land for all of them, the Collector shall, in the absence of any agreement among them, select by lot as many of the sharers as can be provided with land without leaving a fragmented holding, or creating a 25 30

new fragmented holding, and the rest shall be compensated in the manner prescribed in sub-section (1).

- 35 (3) If owing to the existence of scattered fragments less in extent than the standard units in an estate it is not possible to divide it among the sharers so as to leave no frag-
 40 mented holding, such scattered fragments shall be auctioned in the prescribed manner among the neighbours whose lands when combined with such fragments would exceed
 45 the standard units. If there is only one such neighbour the land shall be offered to him at a price fixed by the Collector. The proceeds of the sales of the scattered fragments shall be
 50 divided among the sharers entitled to them in proportion to their interest in them. If such fragments cannot be disposed of in the manner laid down in this sub-section, the largest
 55 of them shall be given to the sharer entitled to the largest share, the second largest to the sharer entitled to the second largest share, and so on until all such fragments have been
 60 disposed of and the claims of the other sharers adjusted in money in the manner prescribed in sub-section (1). Such fragments shall be treated as new fragmented holdings.

22. If any person acts in con-
 5 17, leases a fragmented holding in violation of section 15 or cultivates a new fragmented holding in violation of section 19, the Collector may, after formal inquiry, impose on him
 10 a fine not exceeding Rs. 50. Such fine shall be recoverable as an arrear of land revenue.
- Penalty for infringement of the Act. travention of the provisions of section 11, 12 or

23. The purchase of a plot or
 5 sharer's interest in land under section 21 shall be deemed to be a purpose for which tagai can be granted under the Agriculturists' Loans Act, 1884.
- Grant of tagai. plots by a neighbour or sharer

XII of 1884.

24. In sections 117A and 117B
 5 following words shall be inserted at
- Amendment of sections 117A and 117B of Bom. V of 1879. of the Bombay Land Revenue Code, 1879, the

Bom. V of 1879.

the commencement of the said sections, namely :—

“ Subject to the provisions of the Bombay Small Holdings Act, 192 .” 10

25. Any document solely relating to the lease or other transfer of a fragmented holding or of a new fragmented holding made in accordance with the provisions of this Act shall be exempt from stamp duty and registration fees. 5

23. Nothing contained in this Part shall apply in respect of any transfer of land made by or to the Government. 5

PART II

CONSOLIDATION OF HOLDINGS

27. With the object of forming economic holdings for the purpose of more profitable cultivation the Governor in Council may, by notification in the *Bombay Government Gazette*, declare that a scheme for any village or for any area in a village shall be made to consolidate and redistribute the holdings of land. 5 10

28. Such a notification shall issue only on the application of the Collector. 5

29. Before making such an application the Collector shall hold an inquiry into the distribution and holding of land in the village or in the area in the village deemed to require consolidation and redistribution. 5

30. (1) Every officer making such inquiry shall draw up a plan of the area in respect of which it is proposed to make a consolidation scheme with a list of holders and other persons having an interest in the land to be consolidated and 5 10

redistributed, and shall take the statements of the holders and such other persons in order to determine whether they consent or not to the making of a consolidation scheme.

(2) If a holder or a person having an interest in the land to be consolidated and redistributed fails to appear or attend at the time and place required by such officer, he shall be deemed to have committed an offence under section 174 of the Indian Penal Code, and if any such person refuses to make or sign a statement required by such officer, he shall be deemed to have committed an offence under section 179 or section 180, as the case may be, of the Indian Penal Code.

XLV of 1860.

XLV of 1860.

31. (1) If not less than two-thirds of the holders of plots and not less than half of the owners of land in the area affected consent to the making of a consolidation scheme, the Collector may apply for sanction for a consolidation scheme and shall furnish the following particulars:—

Majority necessary for a scheme; particulars to be given by Collector applying for sanction to preparation of a scheme.

(a) area to be consolidated,
(b) a map showing existing distribution,
(c) a list of persons interested showing if they have consented or not to the making of a consolidation scheme.

(2) The Collector shall also report the minimum size of a profitably cultivable plot of jirait and bagait land, respectively, and of a combination of jirait and bagait land in the area, and any other prescribed particulars.

32. The notification mentioned in section 27 shall contain the following particulars:—

Particulars of the notification declaring that a scheme shall be prepared.

(a) the consent of the necessary majority of holders required by section 31,
(b) the area to be consolidated,
(c) the minimum size of holdings of the different classes of land to be included in the consolidation scheme,
(d) the time within which the consolidation scheme shall be completed.

33. (1) On the issue of a notification under section 27 the Governor in Council shall 5
 Consolidation officer to be assisted by three persons from the village. appoint some officer to be consolidation officer for the purpose of the consolidation scheme.

(2) The consolidation officer on proceeding to the village or area in question shall take the assistance of three persons from the village or area of whom one shall be the revenue patel of the village and the others shall be members of the Sanitary Committee or of the Village Panchayat, if any, or if there is no Sanitary Committee or Village Panchayat, shall be appointed by the Collector. 10 15

34. The consolidation officer shall, in the proceedings under this Act, so far as may be, 5
 Consolidation officer to consult persons summoned to assist him. consult these three persons, but shall not be bound by their opinions.

35. The consolidation officer shall—
 Duties of consolidation officer.

(a) make a plan of the area in respect of which it is proposed to make a consolidation scheme showing all existing sub-divisions by survey numbers, pot numbers and sub-divisions, 5

(b) draw up a list of all holders in the area showing:— 10

(i) the separate holders of plots,

(ii) the joint holders of plots,

(iii) the persons having any other interest in or charge on the land affected, such as claims to maintenance, leases other than annual, mortgages, incorporeal and any other subsisting rights. 15 20

36. The plan and list so made shall be published in the village, at the taluka town, and at the district headquarters, together with a general notice inviting claims and objections and separate notice shall, so far as possible, also be served on all persons believed to be interested in the land affected. The notices shall specify the time within which 5 10

Publication of plan and list and notices to holders and all persons interested.

all claims and objections will be received by the consolidation officer.

5 **37.** On the expiry of the period specified in the notices under section 36 the consolidation officer shall hold a formal inquiry and shall hear and decide all claims and objections made to him.

5 **38.** When all the claims and objections, if any, made to the consolidation officer have been finally determined by him, he shall proceed to value the rights of all persons who have been found to have an interest in the land affected as holders or mortgagees, or for maintenance, or a charge or any other interest.

10 **39.** In making such a valuation, the consolidation officer shall take into consideration—

5 (i) the market value of the land at the date of publication of the notification under section 27,

10 (ii) the value of any trees or buildings on the land,

(iii) the damage likely to be sustained by any person by reason of severance of any land from other land,

15 (iv) the value of the remaining portion of any lease for more than a year,

(v) The amount due on any mortgage of the land,

20 (vi) The capitalized value of any charge for maintenance, or any other interest in the land.

5 **40.** Where there are several persons interested in such valuation and they agree to the apportionment of the land proposed by the consolidation officer the agreement shall be specified in the valuation and shall be final and conclusive and binding on all persons. Such agreement shall be reduced to writing, read and explained to the parties and signed or otherwise authenticated by the consolidation officer and all the persons interested.

41. If there is any dispute as to the apportionment of land, the consolidation officer shall refer the dispute to the President of the Tribunal of Arbitration for the decision of such Tribunal. 5

42. The Tribunal of Arbitration shall consist of a President and two assessors. The President shall be the District Judge, one assessor shall be a person having no interest in the land of the village and appointed by the District Judge. The other assessor shall be the consolidation officer. 5
10

43. The Governor in Council may, if he thinks fit, remove for inability or misconduct or any other good and sufficient reason the assessor appointed under section 42 or the consolidation officer. 5

44. The Tribunal of Arbitration may sit either at the headquarters of the President or at any other place, within the local limits of his jurisdiction, which he may consider convenient for the decision of any matter before such Tribunal. 5

45. Every party to any proceeding before the Tribunal of Arbitration shall be entitled to appear either in person or by his recognised agent. 5

46. All questions of law and procedure shall be decided by the President. All other questions shall be decided by the President and the two assessors or by the majority of them. 5

47. The Tribunal of Arbitration may accept, modify, vary or reject the proposals of the consolidation officer. 5

48. Every decision of the Tribunal of Arbitration shall be final and conclusive and binding on all persons. 5

49. Nothing contained in this Act shall be deemed to constitute the Tribunal of Arbitration to be a court. 5

50. (1) The non-official assessor appointed under section 42 shall be entitled to

Remuneration of non-official Assessor, and payment of incidental expenses of Tribunal.

5 such remuneration as may be fixed by the Collector from time to time subject to the approval of the Governor in Council.

10 (2) The remuneration payable to the non-official assessor and all expenses incidental to the working of the consolidation scheme and the redistribution scheme shall, unless the
15 Governor in Council, otherwise determines, be payable by the persons who have benefited by the redistribution of the holdings in such manner as the consolidation officer shall determine. Such sums shall be recoverable as
20 arrears of land revenue.

51. The consolidation officer's valuation of all rights involved in a consolidation scheme shall be final and conclusive and binding on all persons.

Valuation by consolidation officer to be final.

52. When the valuation of all the rights affected by a consolidation scheme has been finally determined, a list of the persons having an interest in the land affected and the value of such interest shall be posted in the village chavdi, and notice of such interest and its value shall be sent to each such person.

List of persons interested and value of their interest to be published.

53. The consolidation officer shall then frame a redistribution scheme in respect of such area containing proposals for the division of the area being dealt with into plots, none of which shall be less in extent than the standard unit, and each of which shall contain as far as possible a due proportion of jirait and bagait land. The redistribution shall be made in such a manner that the new holdings shall, so far as may be, conform to the previous holdings.

Area affected to be divided into plots not less than standard unit.

54. The redistribution scheme shall provide for roads, tanks, rights of way, water-courses and such other conveniences in such a way as to ensure that the reconstituted plots shall be cultivable to the greatest advantage.

And to provide for maximum convenience for cultivation of such plots.

55. When the redistribution has been completed, the Superintendent of Land Records shall determine the area and assessment of each reconstituted plot by summing the assessment of all the pieces of land which compose it. The classification and description of the land (as rice, garden or dry crops) shall not be changed :

Assessments to be transferred from the old holdings to new. 5
 Provided that if by the redistribution any land loses irrigation water or any other advantage for which a special rate has been levied, and that advantage is transferred to any other plot of land, the Superintendent of Land Records shall have power to reduce or enhance the respective rates. He shall also have power to class and assess under the rules for the time being in force in this behalf any land given up from roads or any other public purposes to cultivation and to remit the assessment on any land transferred from cultivation to roads or any other public purposes. 15
 20
 25

56. The settlement guarantee shall not be affected by such re-assessments.

57. Alienated land shall always be separately demarcated and shall not be included in any consolidation scheme. 5

58. The reconstituted plots shall then be revalued in such a way as to provide for the values of all the rights which have been determined and valued under the foregoing provisions and posted under section 52 and so that the total value shall equal the total sum due under that section. 5
 10

59. Any person willing to receive compensation instead of reconstituted land shall be allowed to do so, if this is possible under the redistribution scheme. 5

60. If any original holder or person interested is not willing to take any reconstituted plot under the redistribution such plot may be allotted for its valuation under section 58 to any other person willing to take it. 5

61. Persons who have been allotted new
Adjustment of interests of new holders. holdings in the
redistribution
5 shall have the values of their old
holdings set against their new ones
and shall be debited or credited in
the scheme, as the case may be,
with the difference in value between
10 the two.

62. Persons who were original
Credit of value of holdings. holders and who
ings. have got no new
5 holdings in the redistribution shall be
credited in the scheme with the
value of their old holdings.

63. Persons who were not
Debit of value of holdings. original holders
and to whom
5 plots have been allotted under the
redistribution shall be debited with
the value of the plots allotted to them.

64. When all the allotments of
Other claims how to be adjusted. reconstituted
plots have been
5 made and the
sums due or owed on them have
been fixed the scheme shall deal with
the remaining interests involved.

65. When persons liable for
Interests on plots. such an interest
have obtained
5 plots on allotment the value of the
interest shall be placed as a charge
on such plots.

66. When such persons have
Interests paid off. not obtained
plots in the redis-
5 tribution the interest shall be paid
off from the sums allotted to them in
the valuation.

67. The scheme may provide
Provisions for payments under the scheme. that any charges
placed on the
5 land may be
defrayed by a loan under the Land
Improvement Loans Act, 1883, the
amount of which shall then form a
first charge on the land, or that they
shall be defrayed by annual instal-
10 ments which, if in arrear, shall be
recoverable as an arrear of land
revenue or the holders may them-
selves pay off any such sums.

68. When the scheme has been
Submission to Government for sanction. completed it
shall be sub-
5 mitted to the
Governor in Council for sanction
through the Collector and the
Commissioner, and, if the Governor

in Council is satisfied that the scheme will be for the benefit of the area, and that all claims and interests have been provided for, he may sanction the scheme. 10

69. If the Governor in Council sanctions the Government sanction. scheme, a notification shall issue, publishing it in the *Bombay Government Gazette* and at the District and Taluka headquarters and in the village. 5

70. The notification shall state the date from Contents of notification. which the scheme is to come into effect and the result of its coming into effect. 5

71. On the publication of the sanction of the Legal effect of publication of notification. Governor in Council to the scheme the whole of the redistributed area shall be deemed to vest in Government as if it had been acquired under the Land Acquisition Act, 1894, and until it is re-allotted. 5

I of 1894.

72. The Collector shall then grant to each of Issue of sanads by Collector. the holders of the new plots a sanad in the prescribed form with a map showing the area and boundaries, and the obligations which are attached to the plots, and the assessment or other charges upon the land. 5

73. The Collector shall then on such date as Holders to be put into possession. may have been notified for this purpose place the holders in possession of the plots allotted to them under the scheme. 5

74. In any case in which consolidation of holdings has Concessions in order to assist consolidation. been or is being effected in accordance with the provisions of this Act— 5

(a) stamp and registration charges on any deed concerned with the consolidation of any holding shall be remitted on production of a certificate of a Mamlatdar endorsed on the deed that it is concerned with the consolidation of holdings under this Act; 10

(b) half the assessment on the consolidated area shall be remitted for three years; 15

20 (c) tagai may be granted if the object of the grant of the tagai is to carry out any of the purposes of this part.

75. No suit or other legal proceeding shall be maintained in respect of the exercise of any discretion conferred by this Act or against any public servant or person duly appointed or authorized under this Act in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

76. (1) The Governor in Council may make rules consistent with the provisions of this Act to carry out the purposes and objects of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the selection of members of the District Local Board for the Committee to be appointed under section 4 and the filling up of vacancies in their number ;

(b) the manner in which the notice referred to in section 6 shall be published ;

(c) the manner in which the standard units prescribed by the Commissioner under section 8 shall be published ;

(d) the manner in which the valuation made by the Collector of the shares of persons not provided with land at the partition shall be distributed among those provided with land under sub-section (1) of section 21 ;

(e) the manner in which scattered fragments of an estate shall be auctioned under sub-section (3) of section 21 ;

(f) the particulars to be reported by the Collector under sub-section (2) of section 31 ;

(g) the procedure to be followed by the consolidation officer ;

(h) the procedure to be followed by a Tribunal of Arbitration under this Act ;

(i) the procedure to be followed generally in carrying out the provisions and objects of this Act ;

(j) the form in which sanads 45
shall be granted by the Collector
under section 72 ;

(k) any other matter required to
be done under or in furtherance of
the provisions of this Act for which 50
provision is, in the opinion of the
Governor in Council, necessary.

(3) The making of rules under
this section shall be subject to the
condition of previous publication. 55

STATEMENT OF OBJECTS AND REASONS

The subject of the excessive sub-division and fragmentation of agricultural holdings has engaged the attention of Government for a number of years. The evils resulting from these processes may be briefly stated as follows :—

(a) they impede cultivation and cause a waste of time ;

(b) they prevent permanent improvements to land being undertaken, as it is impossible to use labour-saving implements or even iron ploughs on land which is broken up into scattered pieces ;

(c) they preclude the proper organization of labour and capital and cause a waste of a large amount of arable land in boundaries ;

(d) they prevent a cultivator from living on his farm, result in second crops not being grown when they can be, in some cases send the land out of cultivation altogether, cause enmity amongst neighbours leading to quarrels and litigation, and, generally speaking, produce an uneconomic situation. The excessive sub-division of land in certain areas of the Presidency has gone so far as to amount to a serious hindrance to cultivation resulting in a general diminution of their crop outturn. In the interests of cultivation, therefore, it is necessary now to take measures to check the evil.

2. The object of this Bill is to remedy these evils so far as it is possible to do so. This it is proposed to do in three ways—

(1) by prohibiting all future sub-divisions of land into plots which are agriculturally uneconomic ; (2) by ensuring that all transfers of land shall henceforth be towards the consolidation of holdings instead of in the direction of their fragmentation ; and (3) by setting up machinery which will, where necessary, redistribute into plots that can be cultivated at a profit holdings which have become so fragmented as to be no longer worth cultivating.

3. The Bill, which deals only with agricultural land, consists of two parts, which though distinct and separate, are connected to this extent that they deal with the same subject, namely, the sub-division and fragmentation of holdings. The first part consists of proposals to prevent further sub-division and fragmentation. In order to protect existing rights, as far as possible, separate provisions have been made for existing fragmented holdings and new fragmented holdings. So far as the existing fragmented holdings are concerned, it is not proposed to interfere with transactions relating to them (with the exception of leases) otherwise than by the right of pre-emption given by clause 12. As for leases, the lease of any fragmented holding, whether new or old, to any person other than the occupant or the lessee of a contiguous plot, is prohibited. The only distinction between an old and a new fragmented holding in the matter of cultivation is that while an old fragmented holding can be cultivated by its occupant the cultivation of a new fragmented holding even by the occupant himself (except as provided in clause 19) is prohibited. It will be seen that it is the cultivation and not the ownership of fragments which leads to unprofitable cultivation and that the cultivation, at any rate, of fragments which are brought into existence hereafter must be prevented if an enactment of this nature is to be at all effective.

The scheme may be briefly outlined as follows :—

(1) In districts or areas to which Government shall extend the provisions of the Act standard units will be selected by the committee appointed under clause 4, having regard to the character of the crops in the particular area.

(2) After standard units have been fixed for any area any person who desires to transfer his land which is less in size than the standard unit

(otherwise than by lease or mortgage without possession) shall give the first right of refusal of it to the owners of the adjoining lands, and it is only when no neighbour has notified his desire to exercise such right that the owner can sell his land to any other person. Under clause 14 a suit may be instituted by a neighbour to enforce such right of pre-emption. In the case of new fragmented holdings which may come into existence after the passing of the Act the owner is debarred from transferring his plot except to the occupant, or, in the case of a lease, to the lessee or owner of a contiguous holding, and a transfer not so made is void. Under clause 19 the cultivation of a new fragmented holding is prohibited unless such holding is combined with a contiguous plot or plots so that the total area so cultivated shall be equal to or exceed the standard unit.

(3) Sections 117A and 117B of the Bombay Land Revenue Code shall be amended, so as to prevent the sub-division of land by the Courts by the partitioning off of portions below the standard unit.

(4) Tagai may be granted and stamp and registration fees may be remitted with the object of furthering the purposes of the Act.

(5) The Courts and Revenue Officers shall not recognize a partition involving the separation of land of less size than the standard unit.

4. The second part of the Bill is a consolidating measure, the object being to consolidate scattered and fragmented holdings in certain selected and specified villages. Considerable areas have been consolidated in Germany, France, Italy, Austria and other European countries. Consolidation has also been carried out in the Punjab by the Registrar of Co-operative Societies, with the help of the Societies, and without recourse to legislation. Similar attempts in this Presidency have not been successful. The method must be very slow.

A Consolidation Act has also already been placed on the Statute Book by the Government of His Highness the Gaikwar of Baroda.

The provisions of the Bill will not apply to inam lands because of the inherent rights attaching to such lands.

The second part of the Bill is largely based on the Bombay Town Planning Act, 1915. In particular a Tribunal of Arbitration based on the Town Planning Act will be instituted for the villages or areas in question. The provisions, however, are not so intricate as in the case of the Bombay Town Planning Act, as consolidation will be effected in rural areas only. There are also provisions for the grant of tagai and for other special concessions, in order to encourage consolidation. The provisions of the Bill do not apply to Sind.

Notes on Clauses

Clause 3.—In framing the definition of "local area" it is assumed that standard units may be determined by the Commissioner either for the district as a whole, or for a part or parts thereof, according as local conditions may require. Any area in a district for which standard units have been so determined will be a "local area" for the purposes of the Act.

Clause 4.—Provision for the duration of office of members of the District Local Board, the vacation of office by them on their ceasing to be members of the District Local Board, the removal of any such member, the manner in which the selection should be made and the vacancies should be filled up, the conduct of the business of the Committee and other matters incidental or ancillary thereto will be made by rules made under clause 76(2) (a).

Clauses 10 to 15.—These clauses provide that after a plot of land has been entered as a fragmented holding in the Record of Rights and notice of such entry has been given to the occupant, the owner shall, if he desires to transfer the land by sale, exchange, mortgage or otherwise, first offer it to his neighbours and that it is only when none of his neighbours is willing to take it

that he shall be entitled to transfer it to any other person. In the case of a lease, the land shall be leased either to the occupant or to the lessee of a contiguous plot. Any transfer of such a plot made in contravention of these provisions is void.

These clauses apply to plots of land of less size than the standard unit which are in existence when the Act comes into force. Separate provision is made for plots of land of less size than the standard unit which come into existence after the Act comes into force. (*Vide* clauses 16-19.)

Clauses 16 to 19.—These clauses aim at stopping the creation of new plots of land of less size than the standard unit after the Act comes into force. Any transfer of a plot of land which has been entered in the Record of Rights as a new fragmented holding (whether by sale, exchange, mortgage or otherwise) except to the occupant, or, in the case of a lease, to the lessee or owner of a contiguous holding, is prohibited and, if made, shall be void. Nor shall a new fragmented holding be cultivated unless it is combined with a contiguous plot so that the total area so cultivated shall be equal to or exceed the standard unit. Thus while the creation of new fragmented holdings by sub-division of land will be stopped by the restrictions on the transfer of such holdings the restrictions on the cultivation of such holdings will, it is hoped, tend to bring into existence plots of land which can be cultivated at a profit.

Clause 20.—As the transfer of fragmented holdings in contravention of the Act is void it is necessary to leave open to the transferees of holdings so transferred such remedies as may be open to them under the law for any consideration which they may have paid for the transfer.

Clause 21.—This clause provides that in partitioning an estate paying land revenue to Government the Collector shall so divide the estate as not to leave any fragmented holding or to create any new fragmented holding.

Clause 24 prescribes the further procedure to be observed in sub-dividing the land.

Clauses 27 to 40.—The remedies proposed in Part I are intended to prevent future fragmentations and to eliminate the fragmentations already effected, but these will obviously operate very slowly in eradicating the evil and it would appear that a more radical remedy is called for if the evil is to be effectively checked in time. It evidently must be similar to the operation now well known as "town planning" in urban areas. The idea is to demarcate an area in which fragmentation has proceeded very far and to remodel it into holdings which are of a size which can be profitably cultivated and to return the remodelled plots, as far as possible, to the original owners, compensating with cash payments those who will get no land in the consolidated area by reason of their original holdings being too small to entitle them to a new plot, unless, they are prepared to make up the deficiency by buying a new plot.

Clauses 41 to 72.—When the proper valuation of all rights and interests has been finally determined by the Consolidation Officer or by the Tribunal of Arbitration, a list in accordance with the decisions shall be drawn up and published. This will form the basis of the ultimate settlement when a redistribution scheme for the area has been sanctioned.

The scheme will be so framed as to form as many workable economic plots out of the entire area as may be possible and to provide roads and other amenities so that the plots, as redistributed, can be cultivated to the greatest advantage. The old assessments will then be imposed on the new holdings but not in such a way as to increase the amount of land revenue to be paid and the classification of the land will similarly not be changed. Nor will the settlement guarantee be affected. The redistributed area will then be regranted so far as possible to the original holders of the plots which have been reconstituted. The interests of all concerned will then be adjusted on the basis of the valuation which was made by the Consolidation Officer by money payments, such payments being effected where necessary by instalments or by means of advances by Government in the shape of tagai loans on easy terms.

The redistribution scheme, when completed, will be submitted to the Governor in Council for sanction and, if sanctioned by him, will be published. The Collector will then grant a sanad to each holder of the new plots with a map showing the area and boundaries and the obligations which are attached to the plots and the assessment or other charges on the land. The Collector will then place the holders in possession of the plots allotted to them under the scheme on the date notified in this behalf.

C. V. MEHTA.

3rd June 1927.

Government of Bombay
LEGAL DEPARTMENT.

[BILL No. XVI OF 1927.]

(As published in the "Bombay Government
Gazette" of the 7th July 1927.)

An Act to prevent the excessive sub-division
of agricultural land and to promote the
consolidation of such land.

[The Honourable Sir CHUNILAL MEHTA,
Kt., M.A., LL.B.]

Impress

X9(J):6: (2231)
68



10

The ..
Bombay Government Gazette

PUBLISHED BY AUTHORITY

SATURDAY, 15TH JANUARY 1938.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

(To be translated into Marathi, Gujarati, Kanarese and Urdu and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.)

The following Bill is published under rule 18 of the Bombay Legislative Assembly Rules :—

BILL No. VI OF 1938.

A Bill to provide for the temporary relief of small holders in the Province of Bombay.

WHEREAS it is expedient to provide for the temporary relief of small holders in the Province of Bombay and for certain other purposes specified herein ; It is hereby enacted as follows :—

1. (1) This Act may be called the **Bombay Small Holders Relief Act, 1938.** Short title, extent and duration.

(2) It shall extend to the whole of the Province of Bombay.

v-10

been as high as 68 per cent. In Berar, where debts are generally secured, the percentage of remission was not so high as in the Central Provinces, and debts amounting to Rs. 51.32 lakhs were conciliated for Rs. 38.26 lakhs resulting in remission of Rs. 13.06 lakhs or 25 per cent of the demand. In 2,207 cases, involving debts amounting to Rs. 12.58 lakhs, certificates under section 15 (1) of the Debt Conciliation Act were issued, declaring that

notes
with appreciation the prompt and efficient manner in which the chairmen generally have conducted their proceedings.

By order of the Governor,
Central Provinces & Berar,

C. J. W. LILLIE.

Secy. to Govt., C. P. & Berar,
Revenue Department.

(3) It shall remain in force up to and inclusive of the 31st March 1939.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Person" includes an undivided Hindu family.

(2) "Small holder" means—

(a) an individual—

(i) who holds land not exceeding five acres of irrigated land or fifteen acres of other land, and

(ii) who cultivates land himself or is an inferior village servant,

(b) an undivided Hindu family—

(i) which holds land not exceeding the limits specified in clause (a) (i), and

(ii) at least one member of which personally cultivates land.

Explanation.—For the purposes of this clause, in the case of a person who holds irrigated as well as other land, one acre of irrigated land shall be deemed to be equal to three acres of other land and vice versa.

(3) The words and expressions used in this Act, but not defined, shall have the meanings assigned to them in the Code of Civil Procedure, 1908, and the Bombay Land Revenue Code, 1879, as the case may be.

Stay of
decrees trans-
ferred to
the Collec-
tor.

3. (1) Notwithstanding any law for the time being in force, all proceedings pending at the date of the commencement of this Act or which may be instituted during the period for which this Act remains in force, for the sale of land belonging to a small holder for the recovery of any debt under a decree, the execution of which has been or may hereafter be transferred to the Collector under section 68 of the Code of Civil Procedure, 1908, shall, on the application of the small holder and on the amount of the interest, as specified under sub-section (2) being paid to the decree-holder or deposited with the Collector, be stayed :

Small | Provided that such proceedings shall not be stayed if the Collector for reasons to be recorded in writing is of opinion on the application by the decree-holder that such stay will cause substantial loss to such decree-holder.

(2) The interest under sub-section (1) shall be the amount of interest, if any, due under the decree on the sum for the recovery of which the land is sought to be sold for a period of one year from the date on which the said sum became payable or for a period from the said date up to the date of the application by the small holder for the stay of execution under sub-section (1), whichever period is shorter.

(3) If the Collector, on the application of the decree-holder, is of opinion that any rights of such decree-holder to the said land or to the proceeds of the sale of such land are likely to be prejudiced by reason of any proceedings taken under any law for the time being in force relating to the said land, the Collector may direct that the proceedings in execution stayed under sub-section (1) shall continue.

XVII
of 1879

4. (1) Notwithstanding anything in section 22 of the Dekkhan Agriculturists' Relief Act, 1879, every order under the said section directing the Collector to take possession of land belonging to a small holder passed before or after the commencement of this Act shall not take effect before 31st day of March 1939.

Possession of property under section 22 of the Dekkhan Agriculturists' Relief Act, 1879.

(2) Nothing in this section shall affect the power of the Collector to deal under the said section with any land, the possession of which has been taken before the commencement of this Act.

5. Notwithstanding anything contained in any law for the time being in force, no private transfer of any land belonging to a small holder, the proceedings for the sale of which have been stayed under this Act or of any interest therein made by him after this Act comes into force, shall be valid except with

Restriction on private transfer by small holder.

Small

the previous sanction of the Collector of the district in which such land is situate :

Provided that no such sanction shall be given unless the Collector is of opinion—

(a) that such transfer will enable the small holder to effect a composition in satisfaction of the debts due to all his creditors ; or

(b) (i) that substantial loss will be caused to such small holder if such transfer of such land or interest therein is not sanctioned, and

(ii) that such transfer does not adversely affect the interests of any creditor of the small holder.

Collector's decision to be final in certain cases.

6. If in any proceedings under any of the three preceding sections, a question arises whether a person is a small holder such question shall be decided by the Collector and the decision of the Collector shall, notwithstanding anything contained in any law for the time being in force, be final.

Bar against eviction of tenant.

1935

7. Notwithstanding any law for the time being in force or any contract between the parties, no tenant who has been in possession of land used for the purpose of agriculture uninterruptedly from the first day of January 1935 shall, in pursuance of any decree or order of any Court, be evicted from such land, if such tenant tenders to the landlord or any person acting on his behalf all rent due in respect of the land for the year ending with the 30th day of June 1938, and is willing to hold the land thereafter as a tenant on the same terms and conditions on which he was holding the same at the date when the cause of action arose to the landlord for the purpose of evicting him.

Revival of rights, liabilities and obligations after the expiry of the Act.

8. Any right, privilege, obligation or liability acquired, accrued or incurred under any enactment, decree or order of any Court, or any contract between the parties immediately before the commencement of this Act or which may be acquired, accrued or incurred; during the period for which this Act remains

in force, but the enforcement of which has been stayed by the provisions of this Act, shall immediately on the expiration of this Act, revive and be enforceable as if this Act had not been passed.

9. All powers exercisable by the Collector under this Act may be exercised by the Assistant or Deputy Collector or by such officer as may be empowered by the Collector in this behalf. ^{Delegation of powers of Collector.}

10. The Provincial Government may, by notification in the Official Gazette, make rules to carry out the purposes and objects of this Act. ^{Rules.}

STATEMENT OF OBJECTS AND REASONS.

The Government have under consideration the question of the relief of agricultural indebtedness and the regulation of tenancies, but the framing of a complete scheme for this purpose requires very careful consideration and the detailed working out of the necessary measures. This obviously requires time. But in the meanwhile Government consider that it is necessary to prevent the sale of the lands of small agriculturists whose redemption from heavy indebtedness is one of the most important responsibilities of Government. The present legislative measure is intended to serve this purpose and to prevent the proposed remedies from being frustrated before the necessary legislation becomes operative. •

(Signed) K. M. MUNSHI.

15th January 1938.

By order of the Governor of Bombay,

G. S. RAJADHYAKSHA,
Secretary to the Government of Bombay,
Legal Department.

Bombay, 15th January 1938.

File copy
under Secretary

X9(J):6:(2291) ✓
68

11

GOVERNMENT OF THE
CENTRAL PROVINCES AND BERAR
REVENUE DEPARTMENT

Nagpur, the 14th August 1937.

Review on the working of the Debt Conciliation Boards in the Central Provinces and Berar during the year ending the 30th September 1936

During the year under report the boards at Mehkar and Kelapur closed their operations. The board for the Balaghat district also finished its ordinary work during the year and was engaged for the rest of year in conciliating debts above Rs. 25,000 and below Rs. 75,000. The work of the boards at Mehkar, Kelapur and Balaghat has been reviewed separately. This review relates to the working of the following boards:—

- (1) Ramtek-Umrer.
- (2) Chikhli.
- (3) Wardha-Hinganghat.
- (4) Patan-Sehora.
- (5) Sohagpur.
- (6) Mandla.
- (7) Narsinghpur-Gadarwara. ✓
- (8) Khandwa.
- (9) Bhandara, Gondia and Sakoli.
- (10) Chhindwara-Sausar. ✓
- (11) Betul, Multai and Bhainsdehi.
- (12) Saugor, Banda and Rehli.
- (13) Basim-Mangrupir.
- (14) Amraoti-Chandur.
- (15) Damoh-Hatta.
- (16) Akola.
- (17) Yeotmal-Darwha.

2. Reports on the working of all these boards have been received and Government is examining them separately. A consolidated summary of the work done by them is enclosed in the form of a statement for general information.

3. In the province as a whole debts amounting to Rs. 187 lakhs were conciliated during the year for Rs. 98.93 lakhs, and remission of Rs. 88.70 lakhs or 47 per cent of the claims was obtained. The percentage of remission obtained in individual cases has been as high as 68 per cent. In Berar, where debts are generally secured, the percentage of remission was not so high as in the Central Provinces, and debts amounting to Rs. 51.32 lakhs were conciliated for Rs. 38.26 lakhs resulting in remission of Rs. 13.06 lakhs or 25 per cent of the demand. In 2,207 cases, involving debts amounting to Rs. 12.58 lakhs, certificates under section 15 (1) of the Debt Conciliation Act were issued, declaring that

the creditors had unreasonably refused fair settlements. The creditors to whom these debts are owing will not be entitled to costs in suits for their recovery nor to any interest in excess of simple interest at 6 per cent per annum on the amount due on the date of the certificate. In conciliated cases instalments for repayment of debts have been fixed with due regard to the paying capacity of the debtors and no future interest has been allowed except in the case of debts due to co-operative societies. The highest number of instalments was 20 and the multiple of rent or revenue that the average instalment represented was never more than three times the rent and generally not more than the rent. The payment of instalments falling due during the year shows that they have been fixed according to the paying capacity of debtors.

1,821 applications for recovery of Rs. .82 lakh were received under section 13 (1) of the Debt Conciliation Act, but in only 442 cases were the overdue instalments amounting to Rs. .19 lakh or 21 per cent of the demand recovered by coercive processes. In 6 cases of arrears amounting to Rs. 69 certificates under section 13 (3) were issued declaring the arrears irrecoverable. It is difficult to say yet what reaction the operations of the boards will ultimately have on agricultural credit but so far, though conciliation has restricted borrowing for unproductive purposes, it has not prevented cultivators from obtaining the funds necessary for financing their cultivation, and there has been no reduction in the area under cultivation.

4. Land mortgage banks now exist at Mehkar, Basim, Yeotmal, Sehora, Narsinghpur, Seoni, Amraoti, Bhandara, Nagpur and Raipur, and work in collaboration with the debt conciliation boards. It was hoped that the long-term credit facilities offered by these banks would be used by the people in liquidating their conciliated debts, but it is disappointing to record that advances made by the banks have only recently exceeded Rs. 3 lakhs in the province as a whole. The recent amendment of the Debt Conciliation Act by which the mortgage lien survives an agreement will facilitate the conciliation of secured debts on a larger scale than hitherto. The demand for boards still continues strong, and there are now 43 boards working, each district except Chanda having at least one board.

5. Government records its gratitude to the non-official members of the boards for the ungrudging way in which they have devoted themselves to their work. It also notes with appreciation the prompt and efficient manner in which the chairmen generally have conducted their proceedings.

By order of the Governor,
Central Provinces & Berar,

C. J. W. LILLIE.

Secy. to Govt., C. P. & Berar,
Revenue Department.

Statement showing the working of the Debt Conciliation Boards in the Central

Name of board (1)	Date on which the board was established (2)	Cases pending at the beginning of the year		Cases registered during the year		Cases disposed of during the year					
		Number (3)	Amount (4)	Number (5)	Amount (6)	Dismissed under section 7 (1)		Agreements executed under section 12 (1)			
						Number (7)	Amount (8)	Number (9)	Amount due to those who agree (10)	Amount in agreement (11)	Percentage of remission (12)
			Rs.		Rs.		Rs.		Rs.	Rs.	
1. Ramtek-Umrer ..	15-12-35	..	..	2,528	33,66,671	117	1,79,661	1,179	15,45,734	7,00,246	55
2. Chikhli ..	1-5-36	..	..	1,465	22,40,200	28	91,355	193	2,73,056	1,78,685	35
3. Wardha-Hing a n-ghat.	1-5-35	1,539	37,02,365	3,449	55,80,469	234	5,66,107	1,032	16,47,713	8,57,037	48
4. Patan-Sehora ..	8-5-35	1,098	18,55,416	3,247	31,14,064	734	8,42,344	914	10,97,720	8,75,506	48
5. Sohagpur ..	15-10-35	..	..	1,491	23,35,637	43	46,930	421	5,63,254	22,380	60
6. Mandla ..	15-6-36	..	..	275	5,51,448	28	34,131	12	9,667	4,890	50
7. Narsinghpur-Gadarwara.	3-4-34	2,458	36,57,931	1,047	16,62,923	87	59,249	2,421	30,46,753	12,88,695	58
8. Khandwa ..	20-11-35	..	..	6,703	88,86,237	118	1,36,220	744	12,72,686	4,06,493	68
9. Bhandara ..	1-11-35	..	..	6,086	55,98,748	296	3,14,263	617	4,48,885	1,78,112	60
10. Chhindwara ..	3-9-35	566	4,75,678	3,369	24,51,982	222	1,62,760	1,459	9,77,027	3,85,175	62
Sausar ..	25-3-36	..	..	1,389	20,79,650	25	78,079	82	90,539	40,926	35
11. Betul and Multai	15-4-35	2,498	26,77,495	3,567	27,02,763	667	10,49,974	1,395	11,03,595	47,80,715	56
Bhainsdehi ..	1-7-36	..	..	101	1,06,087	6	3,927	..	..	..	..
12. Saugor and Banda	20-2-35	1,975	25,04,283	1,321	12,84,116	113	1,41,069	1,218	10,24,152	5,34,366	47
Rehli ..	1-3-36	..	..	1,514	13,50,449	22	19,286	54	42,768	17,801	58
13. Basim ..	15-4-35	2,232	31,93,655	2,671	26,50,659	29	42,789	1,496	15,01,069	9,35,839	38
Mangrul ..	1-9-35	..	..	1,648	28,96,973	4	7,250	148	2,03,279	1,29,153	36
14. Amraoti ..	15-10-35	..	..	4,436	1,04,12,156	312	9,40,950	530	13,30,530*	12,32,487	7
Chandur ..	23-12-35	..	..	3,121	48,95,667	191	4,33,899	442	8,99,780†	8,44,137	6
15. Darnoh-Hatta ..	1-10-35	..	..	5,717	50,22,852	168	1,55,203	1,201	7,61,247	3,73,570	50
16. Akola ..	11-5-36	..	..	961	18,83,235	8	42,167	121	1,66,336	80,807	51
17. Yeotmal ..	3-9-35	40	1,34,573	1,120	26,30,569	139	4,97,923	393	7,57,526	4,24,282	43
Darwha ..	1-6-36	..	..	508	9,09,728	44	70,108	..	..	..	..

*Out of this, the sum of Rs. 3,52,947 was conciliated for Rs. 2,54,823 resulting in a remission of Rs. 98,124 or 28 per cent of the demand.

†Out of this, the sum of Rs. 1,85,692 was conciliated for Rs. 1,31,337 resulting in a remission of Rs. 54,355 or 29 per cent of the demand.

Provinces and Berar during the year ending the 30th September 1936.

Cases dismissed under section 14		Cases pending at close of the year		Cases in which agreements have ceased to subsist under section 13 (3)			Number of certificates issued under section 15 (1)			Average number of instalments fixed for payment of debt	Multiple of rent or revenue taken in fixing instalment
Number	Amount	Number	Amount	Number	Amount in agreement		Number of cases	Number of certificates	Amount due to creditors against whom certificate is granted		
(13)	(14)	(15)	(16)	(17)	Original	As compounded	(20)	(21)	(22)	(23)	(24)
	Rs.		Rs.		Rs.	Rs.			Rs.		
170	3,15,779	1,065	11,17,171	..	..	..	75	75	1,01,765	16	2
1	2,067	1,243	20,60,385	..	..	..	3	3	2,170	13	3
280	4,81,726	3,442	69,76,504	..	..	..	235	338	1,99,046	Not given	2
305	3,83,485	2,392	23,82,962	..	..	..	104	122	76,541	8—12	1
81	96,810	944	17,28,343	..	..	..	73	90	1,09,380 equal to the amount of rent.	..	..
13	14,627	222	4,77,398	..	..	..	..	..	..	10	Not given.
647	9,94,577	350	7,95,533	..	..	..	586	767	3,30,806	1—20	Not given.
22	28,099	5,809	72,85,479	..	..	..	101	142	65,004	8	2
62	53,829	5,111	47,79,771	..	..	..	14	14	3,308	8	2
86	94,488	2,168	20,97,888	..	..	..	168	191	85,248	10	1.50
11	18,736	1,281	19,01,284	..	..	..	17	19	9,572	8	2.50
47	74,441	3,955	31,52,169	..	..	..	6	6	7,694	9—15	1
..	..	96	1,02,160	..	..	..	..	..	..
344	4,81,723	1,601	21,26,180	..	..	..	79	79	92,764	10—15	1
22	20,553	1,415	12,64,179	..	..	..	2	2	684		
33	55,432	2,535	37,51,488	..	..	..	5	7	2,864	13	2.42
..	..	1,470	26,22,375	..	..	..	..	..	..	13	3.47
16	70,800	3,578	80,58,394	..	..	..	37	41	17,765	14	1.19
2	504	2,486	35,50,453	..	..	..	27	33	10,118	15	1.15
461	3,90,305	4,045	38,65,965	..	..	..	128	146	30,442	15—20	1.50
..	..	832	16,74,732	..	..	..	..	..	..	1	1
159	4,20,914	469	10,21,416	..	..	..	94	132	1,13,093	Not given	Not given.
..	..	464	8,39,620	..	..	..	..	..	..	..	..

The balance of Rs. 9,77,583 was conciliated by transfer of 3,648 acres of land, estimated at Rs. 268 per acre.
The balance of Rs. 7,14,005 was conciliated by transfer of 3,240 acres of land, the rate per acre being Rs. 220.

**STATEMENT SHOWING THE WORKING OF THE DEBT CON-
CILIATION BOARDS IN THE CENTRAL PROVINCES AND BERAR
DURING THE YEAR ENDING THE 30TH SEPTEMBER 1934**

Statement showing the working of the Debt Conciliation Boards in the Central

Name of board	Date on which the board was established	Cases pending at the beginning of the year		Cases registered during the year		Cases disposed of during the year					
		Number	Amount	Number	Amount	Dismissed under section 7 (1)		Agreements executed under section 12 (1)			
						Number	Amount	Number	Amount due to those who agree	Amount in agreement	Percentage of remission
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
1. Ramtek-Umrer ..	15-12-35	..	Rs. ..	2,528	33,66,671	117	1,79,661	1,179	15,45,734	7,00,246	55
2. Chikhli ..	1-5-36	..	..	1,465	22,40,200	28	91,355	193	2,73,056	1,78,685	35
3. Wardha-Hing a n-ghat.	1-5-35	1,539	37,02,365	3,449	55,80,469	234	5,66,107	1,032	16,47,713	8,57,037	48
4. Patan-Sehora ..	8-5-35	1,098	18,55,416	3,247	31,14,064	734	8,42,344	914	10,97,720	8,75,506	28
5. Sohagpur ..	15-10-35	..	..	1,491	23,35,637	43	46,930	421	5,63,254	22,380	60
6. Mandla ..	15-6-36	..	..	275	5,51,448	28	34,131	12	9,667	4,890	50
7. Nar s i n g h p u r -Gadarwara.	3-4-34	2,458	36,57,931	1,047	16,62,923	87	59,249	2,421	30,46,753	12,88,695	58
8. Khandwa ..	20-11-35	..	..	6,703	88,86,237	118	1,36,220	744	12,72,686	4,06,493	68
9. Bhandara ..	1-11-35	..	..	6,086	55,98,748	296	3,14,263	617	4,48,885	1,78,112	60
10. Chhindwara ..	3-9-35	566	4,75,678	3,369	24,51,982	222	1,62,760	1,459	9,77,027	3,85,175	62
Sausar ..	25-3-36	..	..	1,389	20,79,650	25	78,079	82	90,539	40,926	55
11. Betul and Multai	15-4-35	2,498	26,77,495	3,567	27,02,763	667	10,49,974	1,395	11,03,595	47,80,715	56
Bhainsdehi ..	1-7-36	..	..	101	1,06,087	6	3,927	..	..	..	..
12. Saugor and Banda	20-2-35	1,975	25,04,283	1,321	12,84,116	113	1,41,069	1,218	10,24,152	5,34,366	47
Rehli ..	1-3-36	..	..	1,514	13,50,449	22	19,286	54	42,768	17,801	58
13. Basim ..	15-4-35	2,232	31,93,655	2,671	26,50,659	29	42,789	1,496	15,01,069	9,35,839	38
Mangrul ..	1-9-35	..	..	1,648	28,96,973	4	7,250	148	2,03,279	1,29,153	36
14. Amraoti ..	15-10-35	..	..	4,436	1,04,12,156	312	9,40,950	530	13,30,530*	12,32,487	7
Chandur ..	23-12-35	..	..	3,121	48,95,667	191	4,33,899	442	8,99,780†	8,44,137	6
15. Damoh-Hatta ..	1-10-35	..	..	5,717	50,22,852	168	1,55,203	1,201	7,61,247	3,73,570	50
16. Akola ..	11-5-36	..	..	961	18,83,235	8	42,167	121	1,66,336	80,807	51
17. Yeotmal ..	3-9-35	40	1,34,573	1,120	26,30,569	139	4,97,923	393	7,57,526	4,24,282	43
Darwaha ..	1-6-36	..	..	508	9,09,728	44	70,108	..	..	..	..

*Out of this, the sum of Rs. 3,52,947 was conciliated for Rs. 2,54,823 resulting in a remission of Rs. 98,124 or 28 per cent of the demand.

†Out of this, the sum of Rs. 1,85,692 was conciliated for Rs. 1,31,337 resulting in a remission of Rs. 54,355 or 29 per cent of the demand.

Provinces and Berar during the year ending the 30th September 1936.

Cases dismissed under section 14		Cases pending at close of the year		Cases in which agreements have ceased to subsist under section 13 (3)			Number of certificates issued under section 15 (1)			Average number of instalments fixed for payment of debt	Multiple of rent or revenue taken in fixing instalment
Number	Amount	Number	Amount	Number	Amount in agreement		Number of cases	Number of certificates	Amount due to creditors against whom certificate is granted		
					Original	As compounded					
(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)
	Rs.		Rs.		Rs.	Rs.			Rs.		
170	3,15,779	1,065	11,17,171	..	..	..	75	75	1,01,765	16	2
1	2,067	1,243	20,60,385	..	..	..	3	3	2,170	13	3
280	4,81,726	3,442	69,76,504	..	..	..	235	338	1,99,046	Not given	2
305	3,83,485	2,392	23,82,962	..	..	..	104	122	76,541	8—12	1
81	96,810	944	17,28,343	..	..	..	73	90	1,09,380 equal to the amount of rent.	..	..
13	14,627	222	4,77,398	..	..	..	..	..	..	10	Not given.
647	9,94,577	350	7,95,533	..	..	..	586	767	3,30,806	1—20	Not given.
22	28,099	5,809	72,85,479	..	..	..	101	142	65,004	8	2
62	53,829	5,111	47,79,771	..	..	..	14	14	3,308	8	2
86	94,488	2,168	20,97,888	..	..	..	168	191	85,248	10	1.50
11	18,736	1,281	19,01,284	..	..	..	17	19	9,572	8	2.50
47	74,441	3,955	31,52,169	..	..	..	6	6	7,694	9—15	1
..	..	96	1,02,160	..	..	..	..	..	..
344	4,81,723	1,601	21,26,180	..	..	..	79	79	92,764	10—15	1
22	20,553	1,415	12,64,179	..	..	..	2	2	684		
33	55,432	2,535	37,51,488	..	..	..	5	7	2,864	13	2.42
..	..	1,470	26,22,375	..	..	..	..	..	..	13	3.47
16	70,800	3,578	80,58,394	..	..	..	37	41	17,765	14	1.19
2	504	2,486	35,50,453	..	..	..	27	33	10,118	15	1.15
461	3,90,305	4,045	38,65,965	..	..	..	128	146	30,442	15—20	1.50
..	..	832	16,74,732	..	..	..	..	..	..	7	1
159	4,20,914	469	10,21,416	..	..	..	94	132	1,13,093	Not given	Not given
..	..	464	8,39,620	..	..	..	..	..	..	..	..

The balance of Rs. 9,77,583 was conciliated by transfer of 3,648 acres of land, estimated at Rs. 268 per acre.
The balance of Rs. 7,14,005 was conciliated by transfer of 3,240 acres of land, the rate per acre being Rs. 220.

12

NOTIFICATION.

Nagpur, the 2nd February 1937.

No. 307-317-XIII.—In exercise of the powers conferred by clause (iv) of section 2 of the Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act, 1936 (C. P. Act V of 1936), as applied to Berar, the Governor in Council is pleased to invest the following Courts of the Subordinate Judges, Second Class, with powers to try cases under the said Act arising within the areas shown against them:—

Name of Court and area.

- ✓ First Subordinate Judge, Second Class, Amraoti—Badnera town.
- Subordinate Judge, Second Class, Ellichpur—Ellichpur town.
- First Subordinate Judge, Second Class, Akola—Akola town.

By order of the Governor in Council,
C. D. DESHMUKH,
*Financial Secretary to Government,
Central Provinces.*

X:90k6:(221)

G)

NOTIFICATION

Nagpur, the 26th October 1936.

No. 2605-2130-XIII.—In exercise of the powers conferred by sub-section (3) of section (1) of the Central Provinces Adjustment and Liquidation of Industrial Workers' Debt Act, 1936 (C. P. Act V of 1936), as applied to Berar, the Governor in Council is pleased to direct that the said Act shall come into force in the following areas on the 1st January 1937 :—

- (1) Akola town in the Akola district.
- (2) Badnera and Ellichpur towns in the Amraoti district.

By order of the Governor in Council,
C. D. DESHMUKH.
*Financial Secretary to Government,
Central Provinces.*

X.9 (J):6:(2279) ✓
9)

REVIEW ON THE WORK DONE BY THE DEBT CONCILIATION BOARD, BALAGHAT

Nagpur, the 25th May 1937.

No. 1969-1549-XII.—A debt conciliation board in the Balaghat district was established on the 15th February 1934 with Mr. Shaikh Elahi Baksha, Subordinate Judge, as chairman and four non-official gentlemen as members. Mr. Elahi Baksha, chairman, was transferred to Narsinghpur on the 17th March 1934 and Mr. G. S. Saraiya, Extra-Assistant Commissioner, was appointed as chairman. Two additional members were appointed on the 11th April 1934 to cope with the increasing volume of work and two more members were added on the 8th December 1934. The pecuniary jurisdiction of the board was raised from Rs. 25,000 to Rs. 75,000 on the 1st April 1936. Mr. Saraiya worked as chairman up to the 25th August 1936 when Mr. S. A. Pande, Subordinate Judge, second class, was appointed chairman to deal with the remaining applications till the 10th March 1937. During this period of over three years the board received 4,836 applications involving a debt of Rs. 60.82 lakhs. Of these, 1,070 applications involving debts amounting to Rs. 9.44 lakhs were dismissed under section 7 (1) of the Debt Conciliation Act, and 236 applications covering debts of Rs. 12.79 lakhs were dismissed under section 14 as no settlement could be arrived at with the creditors. Agreements under section 12 (1) were executed in 3,530 cases for debts aggregating to Rs. 38.59 lakhs. The latter were conciliated for Rs. 22.65 lakhs securing a remission of Rs. 15.94 lakhs or 41 per cent of the demand. 307 certificates under section 15 (1) declaring that the creditors had unreasonably refused amicable settlement were issued in 257 cases for debts amounting to Rs. 5.44 lakhs.

2. The chairman has reported that although the attitude of creditors towards this measure of conciliation of debts generally was not hostile it was not particularly favourable. The greatest opposition came from the urban "Bania" class and the least from the landlord moneylender. The chairman also found that cases are conciliated better in the interior rather than at the headquarters of the board.

3. The report indicates that the board was generally guided by the following principles in the matter of conciliating the debts:—

(1) If the past repayment equalled the principal amount advanced the creditor was persuaded to reduce the claim to a sum not exceeding the original principal following the principle of dam-dupat.

(2) If the repayments exceeded double the original principal, creditors were induced to reduce the balance substantially.

(3) In cases of new debts advanced after the year 1930 the debt was conciliated for the full amount claimed by the creditor after deducting repayments.

(4) In big debts, properties were transferred to reduce the debt to manageable proportions.

4. The instalments for the repayment of conciliated debts were fixed with due regard to the paying capacity of the debtors and no future interest has been allowed as a rule, except in the case of debts due to co-operative societies. The amount of instalment varied from one year's rental in cases of poor tenants to twice the rental in the richer tracts of the Waraseoni tahsil commanded by irrigation, and the rich Lanji tract of the Balaghat tahsil. In the case of malguzars and pattidars instalments range from one and half times to twice the land revenue payable by them or the settlement valuation of the home-farm.

5. The chairman reports that the effect of conciliation has been that long-term loans to debtors have stopped but short-term loans are still available, in other words that finance genuinely required for the expenses of cultivation will continue to be available. The operations have also encouraged private conciliation as it is estimated that 15 per cent of the total debts which have not come before the board have been privately conciliated.

6. Of the instalments fixed for repayment Rs. 43,347 fell due in the year 1934-35 out of which Rs. 1,895 only were recovered by the issue of coercive processes. Similarly out of Rs. 1,41,646 falling due for recovery in the year 1935-36 applications for the recovery of Rs. 11,857 were received. Out of this Rs. 9,964 were recovered by coercive processes and Rs. 292 without such processes, leaving a balance of Rs. 1,601 for recovery.

7. The Governor desires to acknowledge gratefully the ungrudging service rendered by the non-official members of the board and the chairmen's zeal and energy.

By order of the Governor,
Central Provinces & Berar,
C. J. W. LILLIE,
Secy. to Govt., C. P. & Berar,
Revenue Department.

X9(J):G:(2271)✓
56

14

Review on the working of the Debt Conciliation Boards

Nagpur, the 18th April 1936.

This review relates to the working of debt conciliation boards in the Central Provinces and Berar during the year ending the 30th September 1935. During this year the boards at Khurai and Seoni closed their operations and a review of their working has already been published. The present review relates to the working of the following boards:-

Betul-Multai.
Kelapur-Yeotmal.
Mehkar.
Balaghat.
Patan Sihora.
Basim.
Saugor-Banda.
Narsinghpur-Gadarwara.
Chhindwara-Amarwara.
Wardha-Hinganghat.

Government has read with interest the reports for the year submitted by the chairmen of the boards. The difficulties brought to notice and suggestions made for improving the procedure of the boards are being considered separately and orders will be passed in due course. A consolidated summary of the work done by them is, however, published for general information.

2. During the year the boards conciliated debts amounting to Rs. 67.37 lakhs for Rs. 39.19 lakhs, thus effecting a remission of Rs. 28.18 lakhs, or 42 per cent of the claims on an average. The percentage of remission in individual cases has varied from 25 to 57 per cent. In Berar, where debts are generally secured, the percentage of remission was not as high as in the Central Provinces. In 497 cases involving claims of Rs. 6.30 lakhs, certificates under section 15 (1) of the Act were issued declaring that the creditors had unreasonably refused fair settlement. The creditors to whom these debts are owing will not be entitled to costs in suits for their recovery nor to any interest in excess of simple interest at 6 per cent on the amount due on the date of the certificate. Instalments have been fixed with due regard to the paying capacity of the debtors and no future interest is allowed as a rule, except in the case of debts due to co-operative societies. Such reports of payment of instalments as have been received are not altogether discouraging. For example, in Balaghat, which has not suffered from crop failures, 95 per cent of the instalments due were paid

voluntarily. In the Khurai tahsil, however, which has suffered from frequent crop failures, there has been extensive default. The reaction of the operations of the board has no doubt been in the direction of restriction of credit; but enquiries indicate that there has been no appreciable restriction of such credit as is required for ordinary agricultural purposes.

3. Land mortgage banks now exist at Mehkar, Basim, Yeotmal, Sihora and Narsinghpur to work in collaboration with the debt conciliation boards. It was expected that long-term cash loans available from these banks would secure more substantial remissions of debts, but it is disappointing to note that the facilities offered by the banks have not been utilized so far to any considerable extent. The conciliation of secured debts continued to present difficulty, although all the boards, particularly those in Berar, did succeed in settling a considerable volume of such debts. This was made possible partly by the informal practice of transferring to some creditors part of the property of debtors whose liabilities were disproportionately heavy. The recent amendment of the Act by which the mortgage lien will survive an agreement is likely to facilitate the conciliation of secured debts on a large scale. The demand for more boards continues, and the great rush of applications is unmistakable evidence that these boards have met a genuine want and brought appreciable relief to agriculturists. Government is pleased to note that it has since been possible to increase the number of boards to 28. Boards are now at work in all districts except Raipur, Drug, Bilaspur, Chanda and Mandla. As soon as some of the existing boards have completed their operations, it is Government's intention to transfer them to the remaining districts.

4. Government takes this opportunity of recording its gratitude to the non-official members of the boards for the ungrudging way in which they have given their time and energy to this work at considerable personal sacrifice. It has also noted with appreciation the prompt and efficient manner in which the chairmen of the boards have conducted their proceedings.

By order of the Governor in Council,

R. N. BANERJEE,

Revenue Secretary to Government,
Central Provinces.

Statement showing the working of the Debt Conciliation Boards in the Central Provinces and Berar during the year ending the 30th September 1935

Name of board	Date on which the board was established	Cases pending at the beginning of the year		Cases registered during the year		Cases disposed of during the year								Cases pending at close of year		Cases in which agreements have ceased to subsist under section 13 (2)		Number of certificates issued under section 15 (1)			
		No.	Amount	No.	Amount	Dismissed under section 7 (1)		Agreements executed under section 12 (1).			Cases dismissed under section 14			No.	Amount	No.	Amount in agreement		No. of cases	No. of certificates	Amount due to creditors against whom certificate is granted
						No.	Amount	No.	Amount due to those who agree	Amount in agreement	Percentage of remission	No.	Amount				No.	Amount				Original	As compounded
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
Betul-Mulnai	15-4-35	...	Rs. ...	2,705	27,77,818	8	10,595	198	2,08,799	93,989	51	1	520	2,498	26,79,495	...	...	...	...	...	...
Kelapur	11-6-34	109	8,03,479	602	20,25,635	73	1,83,805	397	10,54,961	6,80,170	38	221	5,65,637	93	8,03,949	...	...	...	109	142	1,67,258
Yeotmal	3-9-35	...	...	40	1,34,573	9	62,442	...	...	...	...	...	...	...	...	...	...	...	...	...	...
Mehkar	11-6-34	344	7,73,960	3,024	34,69,640	315	5,88,520	1,097	14,01,192	10,39,282	25	46	36,874	1,910	25,17,742	...	...	...	75	93	67,434
Balaghat	15-2-34	1,545	17,47,052	2,737	18,67,831	640	4,71,928	1,641	16,60,728	9,13,124	45	132	3,23,313	1,942	12,20,948	...	...	...	...	63	50,010
Patan-Sibora	8-5-35	...	...	1,360	22,17,288	136	1,62,081	105	1,39,156	68,124	71	21	12,892	1,098	18,55,416	...	...	...	...	...	4,704
Nasim	15-4-35	...	...	2,602	33,47,460	...	...	365	4,74,732	2,89,692	40	...	...	1,975	...	...	...	...	...	...	...
Saugor-Banda	20-2-35	...	...	2,522	28,77,478	17	7,088	373	2,17,628	1,11,643	48	132	1,24,355	1,975	25,04,283	...	...	...	...	57	46,296
Narsingpur-Gadawara	3-4-34	2,511	41,87,428	1,600	21,97,920	69	1,82,204	1,100	14,52,648	6,51,650	55	484	8,62,245	2,458	36,75,014	...	...	...	313	414	2,77,462
Chhindwara-Amarwara	3-9-35	...	...	566	475,678	4	2,479	...	...	...	...	...	...	562	4,73,199	...	...	...	...	...	...
Wardha-Hingunghat...	1-5-35	...	...	1,701	39,95,553	65	73,716	83	1,27,104	71,751	43	5	4,280	1,539	37,02,365	...	...	...	...	23	17,118
Total	...	4,609	70,11,919	19,459	2,53,85,874	1,336	17,44,858	5,359	67,36,948	39,19,425	42	1,042	19,30,126	16,050	1,94,32,411	...	...	...	497	797	6,30,291

Duplicate



15

REPORT
ON
AGRICULTURAL INDEBTEDNESS

BY
MR. W. R. S. SATHYANATHAN, I.C.S.

MADRAS
PRINTED BY THE SUPERINTENDENT, GOVERNMENT PRESS

1935

TABLE OF CONTENTS.

PART I.

AGRICULTURAL DEBT—ITS CAUSES AND EFFECTS.

PARA-
GRAPH
NUMBER.

CHAPTER I.—INTRODUCTORY.

Terms of reference and scope of enquiry	2
Method of enquiry	3
Diversity of conditions	4
Physical features of the province	5
Climate	6
Rainfall	7
Tenures	8
The people	9
Classification of land	10
Holdings	11
Irrigation	12
Crops	13

CHAPTER II.—THE CAUSES OF INDEBTEDNESS.

Poverty	15
Vicissitudes of seasons	16
Ravages by wild animals and pests	17
The character of the people	18
The rise in the standard of living	19
The money-lender	20
The middleman and the lack of marketing facilities	21
Litigation, local politics and faction	22
Ceremonies	23
Over-population	24
Fragmentation of holdings	25
Cattle mortality	26
Agricultural practices and the law of diminishing returns	27
The lack of subsidiary occupations	28
Taxation	29
General	30

CHAPTER III.—THE ECONOMIC DEPRESSION.

General	31
Imports and exports	32
Prices of staple food crops	33
Some statistics from the Registration Department	34
Extent of sales and mortgages	35
Rates of interest on mortgages and bonds	36
Purposes of borrowing	37
Periods of mortgage and bonds	38

CHAPTER IV.—VOLUME AND DISTRIBUTION OF AGRICULTURAL INDEBTEDNESS.

Results of investigation by officers of the Revenue department	39
Total debt on population basis	40
Total debt on average basis	41
Total debt on assessment basis	42
Total estimated debt	43
Mortgage debt	44
Nature of security	45
The purpose of borrowing	46
Indebtedness among different classes	47
Relation of debts to assets	48
Credit agencies	49

CHAPTER V.—CIVIL COURTS.

Treatment of usury and other malpractices of money-lenders by civil courts ..	51
---	----

PART II.

REMEDIES FOR AGRICULTURAL INDEBTEDNESS.

CHAPTER VI.—LEGISLATIVE REMEDIES.

Agriculture as an industry	52
A typical example of debt	53
The need for scaling down debt	54
The need for debt conciliation boards	55
Public opinion on the proposed legislation	56

	PARAGRAPH NUMBER.
The extent and nature of private conciliation at present in force	57
Compulsion versus mutual agreement	58
Mr. Ramalingam Chettiar's Debt Conciliation Bill	59
Legislation restricting the alienation of land	60
Regulation of accounts	61
Registration of money-lenders	62
Jurisdiction of civil courts	63
The Usurious Loans Act X of 1918	64
Damdapat	65
Prevention of fraud	66
The Code of Civil Procedure	67
Civil Jail	68
CHAPTER VII.—THE DEPARTMENTS OF AGRICULTURE AND INDUSTRIES AND THE CIVIL VETERINARY DEPARTMENT.	
The department of Agriculture	70
The department of Industries	71
The Civil Veterinary department	72
CHAPTER VIII.—THE CO-OPERATIVE MOVEMENT.	
Historical	73
Officialisation versus non-official control	74
Supervision and audit	75
Co-operative credit societies	76
Interest	77
Overdues, arbitration and execution	78
Non-credit societies	79
Loan and sale societies	80
Controlled credit	81
Co-operative stores	82
Other non-credit societies	83
Co-operation for women	84
Education	85
Training	86
The need for a progressive policy	87
Land mortgage banks	88
CHAPTER IX.—A SCHEME FOR CO-ORDINATED AND PLANNED ACTION.	
Concentration centres	89
Spread of education	90
Official and non-official co-operation	91
CHAPTER X.—LAND REVENUE, FORESTS AND IRRIGATION.	
The land revenue policy	92
Rent on zamindari	93
Irrigation	94
CHAPTER XI.—MISCELLANEOUS REMEDIES.	
Communications	95
Weights and measures	96
Transport	97
Emigration	98
Insurance	99
Education	100
Conclusion	101

X9(J):6:(221).N355

65

From

W. R. S. SATHIANADHAN, Esq., I.C.S.,

Special Officer for enquiry into Agricultural Indebtedness,
Board of Revenue (Land Revenue and Settlement), Madras.

To

THE SECRETARY TO GOVERNMENT,

LAW (GENERAL) DEPARTMENT

[Through the Secretary, Board of Revenue (Land Revenue and Settlement).]

Dated Fort St. George, the 31st July 1935.

SIR,

Under G.O. No. 3295, Law (General), dated 20th November 1934, I have the honour to submit my report on the indebtedness of agriculturists in the Presidency of Madras.

PART I.

AGRICULTURAL DEBT—ITS CAUSES AND EFFECTS.

CHAPTER I—INTRODUCTORY.

2. *Terms of reference and scope of enquiry.*—A period of six months was allowed me for this investigation. I was asked to tour throughout the Presidency. My staff consisted of one clerk and one stenographer. The immense amount of written evidence to be examined, of literature to be studied and of statistics and oral evidence to be collected necessitated more time than was left at my disposal. I therefore had to apply for an extension of 29 days which was granted in G.O. Ms. No. 1997, Law (General), dated 12th June 1935. I took charge on the 3rd January 1935 and submitted my report on the 31st July 1935.

In G.O. No. 3295, Law (General), it is stated that M.R.Ry. Diwan Bahadur T. A. Ramalingam Chettiyar—Avargal, M.L.C., introduced in the Madras Legislative Council a Debt Conciliation Bill. It was in connexion with this Bill that I was asked to investigate the problem of rural indebtedness. My terms of reference were as follows:—

(1) To what extent indebtedness prevails among agriculturists;

(2) how the present depression in value of land and the fall in prices have affected the position of the agriculturists;

(3) how far compulsory recovery of debts through courts has affected the position of agriculturists who have incurred debts;

(4) what facilities are now afforded by land mortgage banks and co-operative societies to agriculturists;

(5) whether conciliation in the matter of discharge of debts is now being resorted to and, if so, to what extent;

(6) to what extent property has been mortgaged by agriculturists as security for debts and how much land has changed hands during the last four years; and how much thereof went to non-cultivating classes;

(7) whether legislation on the lines of the Debt Conciliation Bill for the establishment of conciliation boards is really necessary for the relief of agriculturists and whether there is any demand for such legislation by them; and, if so, whether the scope of legislation should be limited only to debts on land or should include all debts of agriculturists;

(8) whether such legislation is likely to curtail the facilities that now exist for borrowing; and

(9) whether in case legislation is considered unnecessary, there is any other possibility of affording relief to agriculturist debtors.

The Government in this Government Order further states as follows: "At the same time, they (the Government) realize that the problem of agricultural indebtedness is one that calls for a remedy and are prepared to devise or support practical measures which are calculated to solve it satisfactorily." The nature of my work therefore seems clear. The problem of rural indebtedness has of late forced itself much into public notice, chiefly because of the acute economic depression which swept over the world five or six years ago and still continues. In almost all countries, there are attempts being made

towards some sort of a quick solution; in India, nearly all the provinces, notably the Punjab and the United Provinces, and most of the progressive states, particularly the Bhavanagar State, have been and are still devising ameliorative measures, legislative and otherwise. Everywhere economic experts are busy with the problem.

The problem is a vast one affecting, as it does, the Government, as well as the people of India, to an equal extent. No single prescription can cure the chronic and alarming state into which the ryot has been plunged of late. As Mr. Pillai in his *Economic Condition of India* states; "In treating the poverty and indebtedness of the people, it is essential to find out the root cause; else the treatment will be of the symptoms merely, and not of the disease. The eradication of the evil of indebtedness cannot be effected by any single remedy but will require the persistent and simultaneous action of a diversity of remedies, the most important of which is the education of the peasant himself." The Royal Commission on Agriculture also have struck the right note when they say: "It must be clearly recognized that the worst policy toward debt is to ignore it and do nothing."

3. *Method of enquiry.*—I am grateful for the cordial co-operation of Collectors, District Judges, the Registrar of Co-operative Societies, the Director of Agriculture and the Inspector-General of Registration. All Assistant Collectors and selected Revenue Divisional Officers and Tahsildars conducted detailed investigations into one village each in accordance with a plan outlined by me. A questionnaire was issued to the general public and the response was most generous. I toured throughout the presidency, devoting on an average about three to four days to each district. I conducted detailed investigations into the condition of about five hundred families of ryots and labourers. I also held conversations with all those interested in the subject, who cared to discuss the problem with me. My tour programme was given wide publicity well in advance. Officials, especially those of the Co-operative department, gave me valuable information. Wherever possible, I visited co-operative institutions, agricultural farms and private enterprises of advanced ryots in connexion with farming, cottage industries and the like. The time allowed me was naturally inadequate for such an important and involved enquiry, embracing, as it does, the whole presidency. My report, therefore, cannot be complete in every detail. Yet it may serve at least to reveal broadly the position at present and indicate the main lines on which concerted and well-planned action should be taken. Such action is very necessary and that as soon as possible. My report is divided into two parts. In Part I, I have tried to set out the present position of the agriculturist as regards his debts and to

analyse the causes and effects of such indebtedness. In Part II, I have suggested remedies for indebtedness.

4. *Diversity of conditions.*—The report of the Madras Provincial Banking Enquiry Committee, published in 1930, contains a resume of the special features of the province. The diversity of conditions in different parts of the presidency is bewildering. There are marked differences in soils, tenures, and climate as well as well-defined variations in races, castes and customs.

5. *Physical features of the province.*—The Madras Presidency occupies the southern portion of the peninsula. Its extreme length from north-east to south-west is about 950 miles and its extreme breadth about 450 miles. The presidency may be divided into three distinct portions, the eastern coast, the western coast and the table-land in the interior. These divisions are determined by two great mountain ranges, the Eastern and Western ghats, which extend along the two coasts, diverging from each other and leaving between them and the sea narrow strips of plain country. These mountain chains are pierced by three famous rivers, the Godavari, the Kistna and the Cauvery, as well as by other minor rivers and streams. The interior, between these two mountain ranges, consists of successive table-lands and chains of hills crossing from one ghaut to the other.

6. *Climate.*—The climate varies considerably in different parts. Except for a few isolated spots like the Nilgiris and Palnis, where the climate is cool and temperate, South India as a whole is a hot country with intense heat in the summer, and a short and unsatisfactory cold weather, in which the temperature does not fall sufficiently to compensate for the rigour of the really hot months. At Masulipatam and Guntur the thermometer rises frequently to 115° in the shade and occasionally to 120°. The tracts below 4,000 feet above sea level are dangerously malarious. Cholera and smallpox take their regular yearly toll almost throughout the presidency, and plague is found in many places. The climate, therefore, being enervating and depressing, induces lethargy and slackness while promoting epidemics. Hence it is not conducive to heavy manual labour or sustained mental effort.

7. *Rainfall.*—The western hills arrest the lower strata of rain clouds brought up from the Indian ocean by the periodical winds of the south-west monsoon, causing fairly regular and excessive rainfall on the western coast in the districts of Malabar and South Kanara. But the south-west monsoon is weak on the eastern side of the western ghats. The heaviest rainfall of the rest of the presidency occurs during the lighter north-east monsoon. The northern districts, however, have a better rainy season, approximating to that in Bengal. The following statement exhibits the average rainfall in the twenty-five districts of the presidency.

STATEMENT NO. 1.—Rainfall in inches in 1933-34 as compared with the average of the 51 years ending with 1930.

District.	South-west monsoon, 7th June to 26th September.		North-east monsoon, 27th September to 31st January.		Hot weather, 1st February to 6th June.		Grand total.	
	Average (inches).	1933-34 (inches).	Average (inches).	1933-34 (inches).	Average (inches).	1933-34 (inches).	Average (inches).	1933-34 (inches).
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Ganjam—								
Agency	43.1	54.0	7.8	13.1	8.1	3.6	59.0	70.7
Plains	28.8	39.4	11.3	12.7	5.0	1.0	45.1	53.1
Vizagapatam—								
Agency	47.3	47.7	5.9	8.9	6.3	3.8	59.5	60.4
Plains	24.4	23.0	10.7	13.7	4.9	2.3	49.0	39.0
East Godavari—								
Agency	36.1	33.7	7.7	14.2	5.2	3.3	40.0	51.2
Plains	24.6	23.9	12.4	13.0	3.3	0.9	40.3	37.8
West Godavari ..	26.4	28.8	10.0	13.0	2.8	1.8	39.2	43.6
Kistna	24.1	24.9	10.0	12.9	2.9	1.1	37.0	38.9
Guntur	18.5	15.7	10.6	14.2	2.7	1.6	31.8	31.5
Kurnool	17.3	13.8	6.1	9.3	2.3	2.6	25.7	25.7
Bellary	14.6	20.5	5.7	8.7	2.9	2.4	23.2	31.6
Anantapur	13.4	14.1	6.4	6.8	2.9	2.7	22.7	23.6
Cuddapah	15.4	11.8	10.5	9.2	2.3	1.4	28.2	22.4
Nellore	11.3	7.5	21.5	29.0	2.2	1.7	35.0	38.2
Chingleput	15.8	7.6	28.2	29.3	2.5	0.4	48.5	37.3
South Arcot	16.6	9.6	25.9	28.7	3.5	1.1	46.0	39.4
Chittoor	14.9	12.0	14.7	16.6	3.7	3.3	33.3	31.9
North Arcot	18.1	12.4	15.9	16.8	4.1	2.1	38.1	31.3
Salem	14.8	12.9	11.6	15.1	6.3	6.1	32.7	34.1
Coimbatore	8.4	10.6	12.2	20.3	6.0	6.2	26.6	37.1
Trichinopoly .. .	12.1	12.5	16.0	21.8	5.7	2.9	33.8	37.2
Tanjore	12.4	8.0	28.5	28.5	4.0	3.7	44.9	40.2
Madura	9.0	13.5	16.1	23.7	6.3	5.2	31.4	42.4
Ramnad	7.5	7.7	18.5	22.9	5.0	4.5	31.0	35.1
Tinnevely	3.3	5.0	20.5	23.9	5.2	4.6	29.0	33.5
Malabar	88.4	97.5	17.5	23.3	12.0	7.9	117.9	128.7
South Kanara .. .	125.5	121.6	12.7	21.9	7.3	2.8	145.5	146.3
The Nilgiris .. .	42.1	46.2	20.8	24.7	11.2	9.7	74.1	80.6

The rainfall naturally has a profound effect upon crops. While the vegetation in Malabar and South Kanara is luxuriant and prolific, that in the Ceded districts of Kurnool, Cuddapah and Anantapur is thin and hungry-looking, if I may say so, and as Mr. Moir puts it, "depressing even to the omnivorous goat." Unfortunately, the rains do not fall with regularity year by year. Years of drought are often followed by devastating floods; and less favoured tracts like the Ceded districts frequently descend to famine conditions, as at present, in Anantapur and Bellary.

8. Tenures.—The main forms are the ryotwari, zamindari and inam tenures.

The ryotwari system of holding is the principal tenure of this Presidency. The pattadar or registered holder of the land holds

it direct from Government, subject to the payment of land revenue. The ryot is not restricted in his powers of alienation. The land revenue proper ordinarily remains fixed for a period of 30 years, at the end of which it can be decreased without limit or increased up to 18 $\frac{3}{4}$ per cent where enhancements are proposed on the basis of rise in prices only, after an economic enquiry by a Special Settlement Officer. The ryot is bound to pay the assessment fixed on his holding, whether cultivated or waste, though remissions of land revenue are usually granted for drought or other causes beyond the ryots' control. Ryots can also relinquish their lands to Government and need not pay further land revenue, if they apply sufficiently early in a season to enable others to cultivate such lands. The following statement exhibits the area under ryotwari tenure in different provinces:—

STATEMENT NO. 2.—Ryotwari.

Name of Province and the year of collection of statistics.	Total area less Indian States.	Fully assessed area that is cultivated.	Land revenue assessed on fully assessed area.	Incidence of land revenue on fully assessed area per acre.			
				For total area.		For cultivated area.	
				(5)	(6)	(5)	(6)
(1)	(2)	(3)	(4)	(5)	(6)	(5)	(6)
	ACS.	ACS.	RS.	RS. A. P.	RS. A. P.		
Assam, 1931-32	29,785,971	(a) 2,220,449	91,44,321	2 4 2	Figures not available.		
Bombay, 1930-31	74,769,351	23,816,959	4,05,59,988	1 5 6	1 11 3		
Burma, 1931-32	155,849,528	17,470,599	(c) 3,39,87,610	(b) 1 10 4	(f) 2 1 2		
Central Provinces and Berar, 1931-32	11,180,815	7,125,736	1,02,09,886	1 0 10	1 6 11		
Coorg, 1927-28	1,012,260	Figures not available.	3,06,974	2 11 6	Figures not available.		
Madras, 1928-29	(d) 62,518,786	25,266,691	6,47,19,451	1 15 0	2 9 0		

(a) Incomplete.

(b) Defective owing to incomplete data.

(c) Excluding certain districts for which figures for revenue are not available.

(d) Excluding an extent of 150,993 acres (ryotwari, zamindari and inam being the area of the Mettur district).

[Extract from the Agricultural Statistics of India, 1931-32—Volume I, pages 10-11.]

Under the zamindari tenure, the zamindar holds his estate under a *sannad* by paying to the Government a fixed sum known as *peshkash*. The relations between the zamindar

and his ryots are regulated by the provisions of the Estates Land Act. The following statement exhibits particulars relating to zamindari tenure:—

STATEMENT No. 3.—Showing the approximate area and revenue of the Zamindaris in the Presidency of Madras for fasli 1343 (1933-34).

Districts.	Name of zamindaris.	As per census of 1881.			Estimated revenue the Zamindaris in fasli 1343.	Peshkash payable to Government in fasli 1343.
		Cultivated and cultivable area.	Uncultivated area.	Total.		
		(3)	(4)	(5)		
		ACS.	ACS.	ACS.	RS.	RS.
Ganjam ..	Parlakimedi ..	227,200	40,800	268,000	4,98,400	79,787
Vizagapatam ..	Vizianagram ..	384,000	81,280	465,280	20,88,890	4,94,816
	Bobbili ..	65,280	12,160	77,440	626,895	83,453
	Jeypore ..	..	..	5,975,680	11,44,832	15,988
East Godavari ..	Pithapuram ..	157,120	49,280	206,400	9,43,023	2,62,782
Kistna ..	Devarakota ..	89,600	28,160	117,760	2,51,230	79,495
Nellore ..	Venkatagiri ..	769,960	401,280	1,171,340	11,62,240	3,68,734
Chittoor ..	Karvetnagar ..	218,880	222,720	441,600	3,98,598	1,73,842
	Kalahasti ..	368,000	411,520	779,520	4,32,717	1,72,982
Ramnad ..	Sivaganga ..	232,960	137,600	370,560	14,83,611	2,53,451
	Ramnad ..	586,880	158,720	745,600	10,47,800	2,92,627
Tinnevely ..	Ettaiyapuram ..	..	..	337,750	2,96,258	77,985
	All other estates ..	..	..	8,138,080	1,34,54,443	26,35,590
	Total ..	3,099,880 ²	1,543,520 ²	19,094,901	2,38,28,737	49,91,532

[Extract from the Report on the Settlement of Land Revenue of the Districts in the Madras Presidency for fasli.1343 (1933-34).]

There are inam holdings of various kinds, the main feature of which is that the land is held on a reduced or nominal assessment, subject to certain conditions.

There are tenants under all these three systems. Some are long-term tenants with occupancy rights, holding land under registered documents for long periods extending to ten and twelve years. There are the occupancy ryots paying rent to zamindars. There are again tenants-at-will holding under simple leases oral or documentary for a year generally. The lease amounts are paid to the registered ryotwari or inam holders or to zamindars, either in money or in kind. The main forms of tenancy are the sharing system in kind and the fixed lease system in money or in kind.

The tenures in Malabar and South Kanara are different to those in the rest of the presidency. In Malabar, the *janmi* holds the land of Government on payment of assessment. Under him, the *kanamdar* holds on a twelve years' lease and he has a right to renew on payment of a fee. When he leaves, he is entitled to compensation from the *janmi* for all improvements he has effected. The *janmi* and *kanamdar* also lease their lands to tenants on short term leases. The *kanamdar* has almost similar rights to the zamindari occupancy tenant.

In South Kanara, the holding is held under the *muli* tenure. The *mulawargadar* holds land under Government subject to payment of assessment. He has special claims to adjacent waste lands known as the *kumaki right*. The two main classes of tenants are *mulgenidars* with occupancy rights and tenants-at-will or *chalgenidars*

9. *The people*.—One of my terms of reference is to what extent property has changed hands during the last four years and how much thereof has gone to non-cultivating classes. As far as I can make out, there is no such thing in this presidency as a "cultivating class," as distinct from a "non-cultivating class." Landholders and tenants belong to all castes and communities from Brahmans to the depressed classes and actual cultivators as well as absentee landlords are found in all of them. There are cultivating landlords and tenants among all communities and castes, who personally supervise the work on their lands and even do much, if not all, of the work themselves. It is encouraging indeed to find many Brahmans throwing off the shackles of pride and prejudice and doing all the items of agricultural operations themselves with the exception of ploughing. Others who are generally affected by caste prejudices and believe in the false dignity of "sitting at ease," will do well to follow this magnificent lead. Absentee landlordism is steadily on the increase. It is especially increasing among those who lend money to agriculturists, whether professional money-lenders or agriculturist and trader money-lenders. Land was a safe investment till a few years ago, though the return it yielded was meagre. So those, whose professions gave them a surplus for investment, invested in land. Hence, we have absentee landlords among Government servants, lawyers, and retired men. Professional money-lenders, and traders and agriculturists who lend money are gradually turning out to be big absentee landlords. When their loans are not returned, they eventually take the land of their debtors in full or part payment. It being

impossible for them to cultivate this growing volume of landed property themselves, the land is let out on lease to tenants. This tendency of land to pass into the hands of those who will not or cannot cultivate in person has been much aggravated by the economic depression.

I do not think there is any official definition of an *agriculturist* in this province. There are very many who derive some income from their lands and who also earn from other sources. For the purpose of this report, however, he can, I think, be defined as one who derives his income mainly from the land. I presume it is not the intention of the Government to deal with zamindars and rajas, who hold land under zamindari tenure. They may or may not be indebted; but their indebtedness, if any, will probably be of such dimensions as not to come within the purview of any remedial measures that may be contemplated. It will be well, therefore, in this report, to limit our attention to ryotwari and inam landholders, to tenants and subtenants under them, to zamindari ryots and to farm labourers.

The total population of British territory in the Madras Presidency (excluding the States of Pudukottai, Banganapalle and Sandur) was 46.74 millions in 1931, as compared with 42.32 millions in 1921. There was therefore an increase in population of 4.42 millions during the decade 1921—1931. Applying the same rate of increase to the years subsequent to 1931, we arrive roughly at a total population in 1935 of 48.64 millions.

In 1921, 71 per cent of the total population was declared to be supported by agriculture and the same percentage was surmised in 1931. So according to the census reports, we may roughly calculate that 34.53 millions of people in the Madras Presidency in 1935 are supported by agriculture. It should be realized that such calculations cannot possibly be exact. When estimating in millions and crores, errors must creep in. Especially so is this tendency when figures are calculated for anything dealing with agriculture. As already indicated, an agriculturist is an elusive person. Let us suppose a person is a clerk and earns Rs. 35 a month. He may also derive an income of about Rs. 40 from his lands. When questioned by census enumerators, he will almost certainly give his occupation as "clerk." Variations on this theme can be endless. There has been a marked tendency in the last few years for a man, to try and deny any relation to agriculture, if he earns even a negligible income from some other regular source. In 1921, however, the tendency to embrace agriculture was paramount and as Mr. Yeatts says, "comment was made then (in 1921) that some of it (the great rise in the number of agriculturists) probably represented the habit of classing one's occupation as agriculture in preference to other specific but less honourable pursuits."

According to the census report, agricultural labourers increased from 4.62 millions in 1921 to 5.09 millions in 1931. The following table is taken from the latest census report and exhibits the chief contributories to 1,000 persons engaged in cultivation:—

Agricultural labourers	...	429
Cultivating owners	...	390
Cultivating tenants	...	120
Non-cultivating owners	...	34
Non-cultivating tenants	...	16

To quote from the census report, "the predominance of agricultural labourers is at once apparent and these with the working owners constitute over 80 per cent of the total persons engaged in agriculture. The proportions have varied considerably from 1921, but considerations already adduced will account for much of the variations. Circumstances of pride frequently enter in these returns of occupations. The low proportion of non-cultivating tenants shows to what extent subinfeudation obtains in Madras and from another point of view indicates the extreme smallness of the average holding."

10. *Classification of land.*—All lands are divided into survey fields and then again into subdivisions. Cultivable lands are divided from the revenue point of view into *wet* and *dry*. Wet lands are those on which irrigated crops can normally be grown. In all districts, except Malabar and South Kanara, the Government generally supply water to wet fields by means of irrigation sources. In Malabar and South Kanara, as we have seen, the regular south-west monsoon affords a fairly regular water-supply. There are no "irrigation sources" in Malabar, South Kanara and the Nilgiris. Wet rates are very much higher than dry rates. Dry lands are generally on a higher level than wet lands and depend almost solely upon rainfall for water. If water from a recognized source of irrigation is supplied to dry lands, or for an additional crop to wet lands, an extra water rate is charged. In Malabar and South Kanara, we have an additional classification known as *garden*, in which the coconut, arecanut, pepper-vine and the like are grown.

11. *Holdings.*—A revenue holding may consist of a single field or subdivision or, what is far more common, a conglomeration of fields and subdivisions in a single village. The average ryots' holding is generally of the latter type. Many ryots hold lands on ryotwari pattas in several villages. A single patta is given to a ryot who holds land singly, while joint pattas are given to ryots who hold lands jointly. The joint patta is a common feature of South India, an unfortunate but inevitable result of the provisions of Hindu and Muhammadan Laws. The names of these joint holders constantly change as time passes. Some of these pattadars die, others become majors, a few give up their shares to others and so on. But seldom is trouble taken to intimate such changes to the Revenue Department. Yet, it is the duty of the unfortunate karnam to keep the revenue registry up to date. No wonder then that

5.96
34.78
2.61
48
96

line 129.14

9.05
26.99
404
77.11

8.58
2.12
29.42

106.33
in Rebut (14.38)

such a registry is not all that it should be in spite of the ceaseless efforts at rectification of the Revenue Department, helped as it is by the Land Records staff. All joint holders are

jointly and severally responsible for the payment of land revenue on their holdings. The following statement exhibits the size of holdings in the Madras Presidency:—

STATEMENT No. 4.—Showing the size of holdings in Madras Presidency and the number of pattas of various values held.

(1)	Number of pattas.		Extent of holdings in acres.		
	Fasli 1335.	Fasli 1340.	Fasli 1335.	Fasli 1340.	
(2)	(3)	(4)	(5)	(6)	
Pattas on which the payment is Re. 1 and less—					
Single pattas	615,262	702,708	364,658	415,652	
Joint pattas	1,780,692	509,391	237,961	263,524	
Total	2,395,954	1,212,097	602,619	679,176	
Rs. 10 and less but over Rs. 1—					
Single pattas	1,890,396	2,083,586	5,414,095	5,910,164	
Joint pattas	3,382,964	1,105,726	3,584,034	7,004,451	
Total	5,273,360	3,189,312	8,998,129	12,914,615	
Rs. 50 and less but over Rs. 10—					
Single pattas	761,814	790,988	6,260,925	6,460,294	
Joint pattas	447,991	444,695	4,303,014	4,978,495	
Total	1,209,805	1,235,683	10,563,939	11,438,789	
Rs. 100 and less but over Rs. 50—					
Single pattas	83,230	84,774	1,727,312	1,743,920	
Joint pattas	39,339	32,285	896,557	848,590	
Total	122,569	117,059	2,623,869	2,592,510	
Rs. 250 and less but over Rs. 100—					
Single pattas	32,835	35,025	1,331,110	1,375,291	
Joint pattas	13,460	11,944	631,487	555,084	
Total	46,295	46,969	1,962,597	1,930,375	
Rs. 500 and less but over Rs. 250—					
Single pattas	7,042	7,832	626,691	646,899	
Joint pattas	2,402	1,928	216,850	202,841	
Total	9,444	9,760	843,541	849,740	
Rs. 1,000 and less but over Rs. 500—					
Single pattas	2,404	2,286	418,173	428,822	
Joint pattas	588	529	107,697	122,248	
Total	2,992	2,815	525,870	551,070	
Over Rs. 1,000—					
Single pattas	862	921	459,750	521,062	
Joint pattas	189	191	99,868	130,162	
Total	1,051	1,112	559,618	651,224	

[Extract from the Report of the Settlement of the Land Revenue of the Districts in the Madras Presidency.]

It will be seen that the bulk of the pattas are those which yield a land revenue of Rs. 50 and less, those which give Rs. 10 and less forming the vast majority.

Joint pattas are definitely on the decrease, a sign partly of the disintegration of the joint family and the growing urge for partition. What is alarming, however, is that, in spite of fresh assignments to small farmers and labouring classes, the small holder, who constitutes the bulk of the agricultural population of this presidency, is gradually making way for the large landholder, who, while absorbing the lands of the cultivating small farmer, seldom cultivates the land himself.

In the five years between faslis 1335 to 1340, registered holders paying between Rs. 250 and Rs. 500 have increased by 316, those paying between Rs. 500 and Rs. 1,000 have acquired nearly 25,000 acres more land and of those paying more than Rs. 1,000, there are 61 more. In this corresponding short period, the number of pattas paying Rs. 100 and less has fallen from 9,001,688 to

5,734,151 or by 3,267,537. Statement No. 3 above does not give a complete or accurate idea of the present position, because revenue registry is usually not up to date and also because the figures for years after fasli 1340 are not available for purposes of comparison.

12. Irrigation.—The great rivers, Godavari, Kistna and Cauvery supply water to the three main deltaic areas. The districts of East Godavari, West Godavari, Kistna, Guntur, Tanjore, Trichinopoly and South Arcot are benefited by channels from these irrigation sources. The Kurnool-Cuddapah canal irrigates small portions of the Cuddapah and Kurnool districts. There are small isolated deltaic areas in Tinnevely, Madura, Nellore, Ganjam and North Arcot districts. The Cauvery-Mettur project, which has recently been completed at a total cost of over seven crores, will open up for wet cultivation a vast dry area in the Tanjore district, besides supplying more water to the old Cauvery delta. The following statement shows the particulars regarding the areas irrigated in this presidency.

more

STATEMENT No. 5.—Area irrigated in each district from the various sources of irrigation (canals, tanks, etc.) (extract from season and crop reports).

District.	Area irrigated from						Total.	Percentage of irrigated area to net area sown.	Percentage of area irrigated by wells to the total area irrigated.	Percentage of irrigated area to net area sown in the previous year.	
	Government canals.	Private channels.	Tanks.	Wells having independent ayacuts.	Wells supplementing recognized sources of irrigation.	Other sources i.e., spring channels, etc.					
	(1)	(2)	(3)	(4)	(5)	(6)					(7)	(8)	(9)	(10)	(11)
	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.			
Ganjam	107,889	42,322	418,979	..	2,956	84,655	718,845	49	..	..	47
Vizagapatam	54,893	68,455	385,018	67,385	88,473	162,380	718,111	23	9	..	26
East Godavari	875,247	..	103,577	..	146	65,502	544,326	56	..	..	56
West Godavari	428,188	..	73,549	6,949	..	11,776	518,467	64	1	..	69
Kistna	471,508	408	66,795	2,907	..	12,288	553,904	51	1	..	51
Guntur	334,569	..	21,979	13,987	238	4,258	374,798	18	4	..	18
Kurnool	88,138	..	42,202	16,611	249	3,584	95,535	5	17	..	4
Bellary	16,181	29	17,484	9,669	82	8,356	52,219	2	19	..	2
Anantapur	40,465	914	98,697	35,919	23,774	3,661	179,656	9	20	..	8
Cuddapah	50,774	553	54,949	76,151	15,589	27,054	209,481	20	86	..	19
Nellore	139,814	420	233,501	103,395	8,827	17,698	494,823	38	21	..	34
Chingleput	10,901	1	411,568	9,482	15,665	68,791	500,743	65	2	..	67
South Arcot	160,550	2	281,431	22,003	55,438	22,164	466,150	37	5	..	37
Chittoor	22,723	10,798	162,204	64,566	31,103	25,528	285,817	28	23	..	26
North Arcot	21,550	1,435	245,434	74,555	40,306	16,029	359,003	30	21	..	14
Salem	26,501	1,482	72,717	140,761	30,515	20,582	282,043	17	54	..	27
Coimbatore	80,622	148	22,580	418,011	355	14,324	535,685	23	78	..	14
Trichinopoly	129,393	..	65,162	90,468	27,193	10,719	295,732	22	31	..	27
Tanjore	663,984	930	120,051	120,051	9,660	1,365	986,332	76	..	..	73
Madura	147,331	8,144	148,910	116,644	5,808	6,230	427,259	35	28	..	30
Ramnad	1,559	235	818,757	53,620	..	190	374,411	29	14	..	20
Tinnevely	51,441	2,808	166,259	31,206	27,658	2,177	253,891	21	12	..	22
Presidency—1933-34 ..	3,627,318	139,134	3,491,793	1,354,289	379,035	539,787	9,202,231	27.2	14.7	..	27
1923-24 ..	* 3,474,261	* 178,350	3,139,125	..	1,732,063	429,618	9,000,432	28.0	..	..	..

NOTE.—There are no sources of irrigation on the West Coast and the hills. Excluding the West Coast and the hills 29.0 per cent was irrigated during the year 1933-34.

* Revised figures.

Irrigation under Government canals has substantially increased in the last ten years and will certainly expand much further when the Cauvery-Mettur project is supplying the full area it has been intended for. Irrigation under private channels has diminished, while

the total irrigated area under wells remains about the same.

13. Crops.—The appended statement furnishes particulars of crops raised in different parts of the presidency.

STATEMENT No. 6.—Extract from the season and crop report of the Madras Presidency, 1933-1934.

Name of districts.	Total area.	Forests.	Net area sown.	Area of paddy irrigated and unirrigated.	Area of cholam irrigated and unirrigated.	Area of cumbu irrigated and unirrigated.	Area of ragi irrigated and unirrigated.	Total cereals.	Total area of pulses sown.	Area of sugarcane.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.
Ganjam	5,864,818	588,764	1,464,626	1,067,714	17,827	11,272	146,065	1,274,856	280,902	6,757
Vizagapatam	10,999,200	1,100,694	2,506,897	1,112,803	71,702	207,471	501,846	2,133,753	258,890	84,531
East Godavari	8,980,698	907,811	980,290	633,288	98,870	44,794	18,957	819,538	179,787	9,221
West Godavari	1,611,021	48,864	814,982	675,500	60,902	12,267	5,308	759,407	76,783	1,565
Kistna	2,269,736	109,736	1,086,821	576,632	208,432	32,089	7,425	852,042	98,876	594
Guntur	3,683,324	469,312	2,126,148	395,718	435,617	168,509	14,888	1,463,778	110,223	1,133
Kurnool	4,869,190	1,647,270	2,100,660	70,958	522,392	58,776	25,083	1,801,478	139,562	248
Bellary	3,804,539	362,288	2,349,671	41,053	611,858	96,408	22,326	1,226,314	163,293	8,540
Anantapur	4,307,049	456,662	2,051,941	138,157	229,380	146,894	64,954	1,125,393	238,832	2,589
Cuddapah	3,724,695	1,152,250	1,041,720	100,021	283,244	115,054	68,505	751,413	46,690	269
Nellore	5,087,200	466,369	1,369,512	422,264	420,562	106,557	82,839	1,235,249	148,961	22
Chingleput	1,965,897	126,841	767,091	725,408	6,535	10,968	76,675	844,869	15,054	333
Madras	18,685									
South Arcot	2,698,098	183,294	1,289,965	609,650	69,890	90,461	87,168	1,016,238	19,271	9,835
Chittoor	3,778,865	525,282	755,498	204,597	47,310	158,378	166,599	619,508	44,245	9,968
North Arcot	2,982,386	756,433	1,118,184	488,086	67,207	89,198	112,023	879,623	62,590	7,883
Balem	4,517,107	1,006,553	1,563,458	201,783	173,733	298,388	264,904	1,163,003	251,345	6,706
Colombatore	4,527,288	1,436,708	1,922,081	122,042	451,438	320,768	178,194	1,186,583	325,966	8,675
Trichinopoly	2,825,870	144,920	1,353,789	336,871	227,188	271,417	67,018	1,116,200	79,573	5,311
Tanjore	2,366,893	12,692	1,295,888	1,118,291	11,917	7,302	17,885	1,208,513	68,240	920
Madura	3,078,021	758,814	1,213,772	365,321	249,977	32,901	50,674	884,323	96,816	2,097
Ramnad	3,140,268	46,362	1,286,947	455,376	89,672	110,781	73,682	884,568	44,478	373
Tinnevely	2,788,699	221,517	1,215,466	307,504	77,237	162,988	27,325	720,398	142,803	279
Malabar	3,645,573	357,888	1,487,096	891,332	278		11,865	919,000	25,562	26
South Kanara	2,573,509	518,815	557,792	586,692			6,672	593,554	45,009	3,743
The Nilgiris	633,377	311,048	89,278	6,727	119	1	2,688	18,892	629	2
Total 1933-34	91,007,561	13,693,112	33,679,528	11,709,759	4,411,554	3,558,562	2,193,968	24,665,939	3,632,060	121,650
1928-1929.										
Totals for 1928-29	::	13,100,701	34,667,941	11,019,384	4,614,579	3,067,294	2,264,614	25,189,119	3,617,373	86,075
1923-1924.										
Totals for 1923-24 .. .. .	..	* 12,157,794	* 32,287,038	10,516,701	4,647,085	2,645,076	2,562,139	24,632,418	2,638,424	121,392

STATEMENT NO. 6.—Extract from the season and crop report of the Madras Presidency, 1933-34—cont.

Name of districts.	Total fruits and vegetables including root crops.	Total food crops.	Coconut.	Tobacco.	Groundnut.	Gingelly.	Castor.	Total oil seeds.	Cotton total.
	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)
	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.
Ganjam	39,277	1,031,431	8,447	3,224	49,985	52,048	5,286	127,827	980
Vizagapatam	68,045	2,576,458	2,339	51,053	128,352	142,808	10,216	768,843	13,655
East Godavari	50,561	1,098,111	52,579	16,202	158	89,324	7,915	150,124	7,138
West Godavari	27,529	881,912	9,954	7,882	6,454	69,209	6,413	92,229	756
Kistna	15,555	986,275	1,207	6,091	109,324	7,776	8,708	127,072	17,601
Guntur	12,187	1,685,231	183	94,810	352,879	1,039	31,931	336,452	73,381
Kurnool	8,040	1,470,693	20	4,608	480,097	2,493	531,362	518,459	377,559
Bellary	6,426	1,420,489	1,704	970	416,641	11,588	15,860	464,713	569,279
Anantapur	8,897	1,458,914	484	1,406	448,507	29,081	69,300	568,953	107,136
Cuddapah	22,966	839,400	117	1,693	229,478	3,075	8,635	245,081	38,724
Nellore	9,539	1,412,516	283	2,720	16,595	3,522	47,588	68,226	34,721
Chingoleput	18,500	885,478	5,806	19	38,056	17,290	12	62,596	3
Madras	22,394	1,080,694	4,111	1,736	381,960	55,780	1,096	444,376	5,360
South Arcot	33,147	722,334	2,935	512	113,826	5,918	5,633	136,092	32
Chittoor	22,812	1,006,168	11,537	2,073	295,035	25,276	5,092	339,458	360
North Arcot	16,582	1,477,582	9,108	4,360	151,480	52,278	23,874	238,551	61,813
Salem	16,482	1,562,718	10,528	29,575	200,049	36,253	9,934	257,532	351,675
Coimbatore	24,806	1,282,695	6,510	4,312	95,968	73,578	8,126	185,609	45,545
Trichinopoly	27,875	1,038,646	32,344	1,459	65,061	23,119	477	128,805	91
Tanjore	32,772	968,101	7,188	7,690	129,310	27,059	4,585	168,368	145,768
Madura	9,908	862,048	6,340	2,068	58,854	27,255	1,132	93,744	222,274
Bamnad	21,644	1,293,864	5,266	1,158	12,887	69,368	960	88,710	295,704
Tinnevelly	195,232	668,592	335,351	42	1,596	8,422	305	246,570	189
Malabar	23,570	47,216	47,216	1,847	8	2,581	227	50,101	180
South Kanara	13,458	33,781	21	21	5	27	6	122	5
The Nilgiris									
Total for 1933-34 ..	748,255	29,754,432	561,555	247,328	3,779,365	786,145	304,658	7,646,311	2,155,942
				1928-1929					
Total for 1928-29 ..	677,772	29,516,118	570,830	255,229	3,679,349	759,716	344,373	5,915,364	2,464,775
				1923-1924					
Total for 1923-24 ..	657,674	26,951,323	520,552	219,832	1,811,790	695,758	289,020	3,584,591	2,031,321

* Revised figures.

This statement deserves close study. During the eleven years from 1923 to 1934, forests have increased by 535,000 acres. The net area sown, though it has risen from 1923 to 1928, has definitely decreased thereafter. The difference, however, is not substantial. Nor are variations in the areas under paddy, total food crops, tobacco and coconut, particularly significant or noticeable. As regards sugarcane, the area under it has dropped steeply from 1923 to 1929 and again has risen as steeply from 1929 to 1934. Areas under cholam, ragi and cumbu have noticeably fallen off in the last five years while pulses have increased. The most remarkable increase is seen between 1923 and 1929 in the area under ground-nut which shot up from 18.12 lakhs of acres to 36.79 lakhs and again rose in 1934 to 37.79 lakhs.

Agriculture in the Madras Presidency at present is predominantly a food-producing agency. Of the net area sown of 33.880 millions, as much as 29.754 millions or 88 per cent consists of food crops. Of the area sown with food crops, paddy (mostly irrigated) easily takes the first place with 11.704 millions of acres. Cholam, cumbu and ragi, which are predominantly dry crops, account between them for 9.09 millions of acres. It is as well to recognize clearly that the economic system of the South Indian farmer must necessarily concern itself mainly with food crops, and paddy in particular. Paddy cultivation will take on an added significance when the new area under the Cauvery-Mettur project is opened up.

The following statement shows the acres under rice in different parts of India and in other parts of the world:—

STATEMENT NO. 7.—Statement of area and production of rice.

Name of provinces.	Area (1,000 acres)— Average for		Increase or decrease per cent.	Production (1,000 tons) — Average for		Increase or decrease per cent.	Average yield per acre in tons.	
	1922-26.	1927-30.		1922-26.	1927-30.		1922-26.	1927-30.
	(2)	(3)		(5)	(6)		(8)	(9)
1 Bengal	20,793	20,804	- 1.0	7,988	8,615	+ 8	.88	.42
2 Bihar and Orissa	14,446	14,015	- 3.0	4,636	5,466	+ 18	.32	.39
3 Burma	11,996	12,691	+ 6.0	4,739	4,813	+ 2	.40	.38
4 Central Provinces and Berar	5,198	5,486	+ 6.0	1,460	1,605	+ 10.	.28	.29
5 Madras	10,968	11,285	+ 3.0	4,947	5,259	+ 6	.45	.47
6 United Provinces	7,178	6,902	- 4.0	2,168	1,709	- 21	.30	.25
7 Indo-China	12,084	13,843	+15	5,645	5,907	+ 4.6	.47	.43
8 Italy	415	346	-17	569	651	+14.0	1.37	1.88
9 Japan	7,714	7,848	+ 2	10,257	11,045	+ 7.7	1.88	1.41
10 Java and Madura	8,082	8,680	+ 7	4,988	5,174	+ 4.0	.61	.60
11 Korea	3,849	3,928	+ 2	2,610	2,828	+ 8.4	.68	.72
12 Siam	6,394	6,357	- 5	4,560	4,244	- 7.0	.71	.67

(Extract from the Report of the Rice Production and Trade in the Madras Presidency 1934, page 2.)

Madras takes the fourth place among the provinces as regards acreage under rice cultivation, with Burma topping her by a close margin.

The Indian provinces are conspicuous in their poor yields per acre, while Japan and Italy are distinguished by their splendid

outturns. Madras takes the rather dubiously distinguished position of leading the other provinces in the yield per acre. The following statement taken from the *Indian Trade Journal* perhaps gives a better idea of rice production in the different provinces than the previous one:—

Provinces and states.	Area (thousand acres)		Yield (thousand tons)		Yield (per acre—lbs.)	
	1933-34.	1932-33.	1933-34.	1932-33.	1933-34.	1932-33.
	(2)	(3)	(4)	(5)	(6)	(7)
Bengal—						
Autumn	5,775	5,795	2,254	2,208	874	853
Winter	15,499	15,590	6,226	6,958	900	1,000
Summer	393	394	166	198	946	1,126
Total, Bengal	21,667	21,779	8,646	9,364	894	963
Bihar and Orissa—						
Autumn	3,354	3,330	956	936	638	630
Winter	9,829	9,702	3,322	3,251	757	751
Summer	40	40	14	14	784	784
Total, Bihar and Orissa	13,223	13,072	4,292	4,201	727	720
Burma	12,851	12,702	5,185	4,913	904	866
Madras	11,576	11,534	5,090	5,406	985	1,050
United Provinces (a)	6,003	6,187	1,737	1,334	648	483
Central Provinces and Berar (b)	6,886	7,055	1,984	2,009	645	638
Assam—						
Autumn	817	875	196	232	537	594
Winter	3,345	3,588	1,017	1,335	681	833
Summer	187	188	81	85	970	1,013
Total, Assam	4,349	4,651	1,294	1,652	686	796
Bombay—						
Autumn (b)	3,199	3,567	1,470	1,549	1,029	973
Spring	18	18	5	8	622	996
Total, Bombay (b)	3,217	3,585	1,475	1,557	1,027	973
Coorg	84	84	54	55	1,440	1,467
Hyderabad	1,110	997	299	293	603	658
Mysore	763	769	225	242	661	705
Baroda	225	226	65	63	647	624
Bhopal (Central India)	23	20	7	(c)	682	..
Grand total	81,977	82,661	30,353	(d) 31,089	829	(d) 843

(a) Includes autumn, winter and summer rice and also figures for the Rampur state.

(b) Includes Indian States.

(c) Not available.

(d) Excluding Bhopal.

(Extract from the *Indian Trade Journal*, dated 1st March 1934, page 801.)

Centuries of experience have led the Indian peasant to choose the best crop to suit his environment. In Madras, paddy cultivation has taken the first place and will keep it, because economically paddy should take the lead. Professor Mukerjee wisely remarks as follows:—"Notwithstanding the copious and favourable rainfall of China, Japan and India, each nation has selected the one crop which permits it to reap the full advantage, not only of practically all the rain which falls directly upon its fields, but in addition enormous volumes of the run-off from adjacent uncultivable mountain country. These nations have adapted conditions to crops and crops to conditions, until in rice they have a cereal which permits the most intense fertilization and at the same time the insuring of maximum yields against both drought and flood for dense populations. With the practice of Western nations in all humid climates, no matter how completely and highly they fertilize, in more years than not yields are reduced by a deficiency or excess of water. Rice, which gives a maximum yield is a good staple crop for dense populations. Where the population is not dense, however, it cannot be grown; for the cultivation of rice demands a large number of unskilled hands and arduous hand labour over relatively brief agricultural seasons. With a cheap supply of agricultural labour, little manure and with imperfect tools and implements, rice feeds large masses of population. Social cohesiveness among rice-growing peoples naturally is encouraged when a large population is concentrated in small fertile areas, while the flooding of the rice-fields during transplantation develops communal habits of agriculture and communal control of irrigation. It is this social cohesiveness which has governed the characteristic distribution of fields in China, Japan and India."

CHAPTER II.

The causes of indebtedness.

14. Rural indebtedness is not peculiar to India. The agriculturist all the world over is indebted to some extent or another. Mr. Darling states that in Prussia in 1902, 628,000 peasant proprietors carried a debt of £377 millions, and the farmers of the United States in 1910 owed £475 millions. In India itself, agricultural indebtedness is not a phenomenon which has appeared only in recent years. Sir Frederick Nicholson, in 1895, estimated the total debt of the rural population of Madras at 45 crores. In 1930, the Madras Provincial Banking Enquiry Committee estimated the debt at 150 crores. It will be seen later in this report what the present indebtedness is.

Every historian assures us that the Indian agriculturist has always been indebted. But the extent of indebtedness varies, not only with landed security which the agriculturist can offer, but also with the personal credit

he commands. But personal security, however, trustworthy, can never induce a man to lend freely unless the borrower holds property to back his credit with. The more valuable the property, the more the borrowing power; and if, as in India, forethought and caution are thrown to the winds and there is dire necessity for money at any cost, the more the borrowing power of the ryot, the more does he borrow. "Debt follows credit" as Mr. Darling says.

Prior to the advent of the British into India, the position of the Indian cultivators was most precarious. Torn as the country was by political strife and the ceaseless clash of rival powers for supremacy, the fear of constant ejection and dispossession of the land and the fact that the right of private possession of land was not firmly established, discouraged the ever-present money-lender from throwing his money about among agriculturists with that freedom and abandon, which characterized him later. The internal security conferred by the British gave to the agriculturist a secure tenure in his land. He was free to do what he liked with it. He could sell or mortgage it and the law courts respected these transactions. So the security the agriculturist could offer was suddenly vastly increased. And with the increase of security indebtedness shot up. Mr. Darling's theory of debt following credit, however, will not be applicable if the agricultural industry is one yielding a steady and substantial profit every year to a people who, with wisdom and forethought, live carefully within their means and put by the extra profits for a rainy day.

15. *Poverty*.—Quite apart from the character of the people, agriculture in India, with the exception perhaps of the raising of a few commercial crops, is not a profit-making concern. Its main concern in India is to provide food for the teeming millions. "In India agriculture is, with most cultivators, with uneconomic holdings, more a mode of living than a business," says the Royal Commission on Agriculture. The following observations of the Simon Commission hold as good to-day as they did in the past. "The low standard of living to which the mass of India's population attains is one of the first things that strike a Western visitor. Wants are few, diet is simple, climate is usually kind, and a deep-rooted tradition tends to make the countryman content with things as they are. But the depth of the poverty, the pervading presence of which cannot escape notice, is not so easily realized."

The gross value of the crops of the Madras Presidency in 1928-29 was estimated by the Madras Banking Enquiry Committee at Rs. 165 crores. The average prices of rice, cumbu, ragi and cholam taken together fell between 1928-29 and 1933-34 by above 50 per cent, so that the gross value of crops of the

Presidency in 1933-34 would roughly be Rs. 80 crores. Assuming that there was a rural population of 34 millions in the Presidency in 1933-34, we get a gross income from crops raised per head of population, of about Rs. 23-8-0. But the net income should be arrived at by subtracting from the gross value of the produce, the cost of cultivation, land revenue, interest payments and so on. The cultivation expenses may roughly be taken at 40 per cent of the yield, though I am perhaps estimating cultivation expenses at too low a figure. Hence, from a yield valued at Rs. 80 crores, we may deduct Rs. 32 crores for cultivation expenses. We should deduct 8 crores for land revenue assessment and rent paid to zamindars. This leaves a net agricultural income of 40 crores in 1933-34 to support 34 millions of people. Even assuming that no interest on debt is paid, we arrive at the figure of Rs. 11-12-0 as the income per head of rural population in 1933-34. Therefore, even in a year of normal rainfall, making no allowance whatever for a rise in the standard of living or for payment of interest on agricultural debt (no question of paying back the principal generally arises) a sum of about Rs. 15 per head (allowing Rs. 3 to Rs. 4 for income from other sources) has to suffice on an average for food, clothing and the numerous sundries which are required for a man, woman or child. Professor B. V. Narayanasami of the Annamalai University whose evidence will be found in Appendix I, calculates the present *per capita* income of the agriculturist at Rs. 7-8-0. I believe that this is rather too low a figure. My figure of Rs. 15 per head may perhaps be too optimistic, but it is safer to err on the right side and I am positive that my estimate cannot possibly be attacked as being too low.

The average ryot therefore is forced to live a squalid life, ill-fed, poorly clothed, wretchedly housed and with hardly any surplus for those extra amenities which make life worth living.

16. *Vicissitudes of season.*—There is general agreement that the return from investments on agriculture as regards the staple food crops, is low, averaging from 2 to 5 per cent in a normal year with average prices. *Normal* years are not very common in India. As Mr. Darling observes, "the monsoon may fail, or what is more likely near the hills, the rain may come at the wrong time; or a river may rise and sweep away harvest, hamlet and herd. In such circumstances, to support a family upon a few acres without getting into debt requires a level of skill, industry and thrift seldom attained in a hot country. Undoubtedly it can be done, just as a small sailing boat weathers the storms of the Atlantic; but, unless the boat is both well found and well manned, it will assuredly sink. In India, the farm is too often neither the one

nor the other, and nature can be almost as destructive on land as at sea." Mr. Darling rightly reckons that a cycle of five years will give one good year, one bad and three neither bad nor good which we may take as normal. In the good year, the ordinary small holder may just pay his way without a loan. In the bad year, he is forced to borrow for all his wants, including cultivation expenses, food and clothing. Even in the middling years, the cultivator, I maintain, is obliged to borrow to some extent, not only for special expenses like marriage or to buy a bullock, but also for his cultivation expenses. If payment of land revenue and of interest on standing debt do not absorb almost all his surplus, he may be able to pay off at least the recurring debt for cultivation expenses. Often as not, he is unable to do even this and so the borrowings for cultivation expenses go to swell the standing debt. I visited a famine work in the Anantapur district. Those working for famine wages included labourers and small landholders generally paying assessment up to ten rupees. On being questioned as to why landholders paying over ten rupees did not come and work, the village officers told me that it was beneath their dignity to do so. It was admitted that their lands also were lying waste, and land revenue assessment had been completely remitted. I wanted to know how the people came by the wherewithal to live with, since a remission of land revenue put no money into their pockets. The answer was that they had borrowed the money. "Did they borrow from co-operative societies?" I asked. "No" was the answer, "by the time the loan application goes through, the applicants will certainly die of starvation." The fact was that these small landholders, in preference to earning their living by honest work, chose to borrow from money-lenders (including agriculturists and traders who lend money) at most exorbitant rates of interest. The wonder was that the money was so readily available.

17. *Ravages by wild animals and pests.*—Crop pests cause considerable damage. The rice bug for instance is a menace to paddy near forests and will often devastate a whole promising crop in a few days. The officers of the Agricultural department, when appealed to for help by the ryots of South Kanara, offered the bright suggestion that an enormous net should be procured to cover the fields and net such insects! A cloud of locusts can lay bare a vast expanse of cultivation in a few hours. Some years ago, I was an eye-witness to such a visitation in the Anantapur district. The locusts suddenly appeared in millions. I thought we were caught in a great dust storm. Shortly afterwards, the ground was covered with a carpet of these insects 6 inches deep.

Wild animals like elephants, pig, bison, deer and monkeys are regular visitants from forests to neighbouring fields. In Coimbatore

er in South Kanara, for instance, a herd of wild elephants will tear down and completely devastate in a short time a fine plantation reared with infinite care and immense expense. Again, the rat is a greedy rodent which is reputed to consume 6 lb. of grain a year. Professor Mukerjee estimates the loss caused by rats in India per year at Rs. 22 crores.

18. *The character of the people.*—In order to estimate correctly the character of the Indian farmer, one has to trace his history from the earliest times. The Indian farmer has been and will always be the foundation of the economic structure of India. His welfare is a national concern, which should not and indeed cannot be ignored by the State, without eventually leading to catastrophe. This responsibility of the State for the welfare of the farmer has been stressed strongly by every investigator into rural economics. For instance, according to the Central Banking Enquiry Committee, the Businessmen's Commission on Agriculture in America say in their report: "Agriculture is not merely a way of making money by raising crops; it is not merely an industry or a business; it is essentially a public function or service performed by private individuals for the care and use of the land in the national interest; and farmers in the course of a living and a private profit are the custodians of the basis of the national life. Agriculture is therefore affected with a clear and unquestionable public interest and its status is a matter of national concern calling for deliberate and far-sighted national policies, not only to conserve the natural and human resources involved in it, but to provide the national security, promote a well-rounded prosperity and secure social and political stability."

During the series of administrations prior to the advent of the British, "the environments created by the State were such as to depress and discourage productive efforts of all kinds. However benevolent might have been the intentions of the autocrat at Delhi, they were often frustrated by the cumbrous machinery of his administration and the general corruption of his officers. Internal order and security were still unknown, especially in the outlying parts of the Empire; and it was the rule rather than the exception for the strong to prey on the weak . . . The net result was to weaken the will to produce and encourage the investment of any surplus wealth in such unproductive forms as hoarding. A rise in the standard of living was an impossibility under these conditions." The farmer was the most oppressed of all. He dared not show signs of prosperity for fear he should be ejected from his land. No one bothered about his welfare. He remained uneducated and his ignorance and simplicity were taken advantage of by his oppressors, who squeezed him at every turn.

The earlier years of the East India Company's advent brought little improvement into the condition of the farmer. At first, the Company was but little interested in the agricultural production of the country. The abolition of the East India Company's monopoly in the Eastern trade marks the beginning of a new era in English commercial activity. The Royal Proclamation of 1858, by which Queen Victoria assumed the direct sovereignty of India, ushered in a period of progress in all directions,—communications, trade, agriculture and so on. The entry of India into the markets of the world was followed by a rise in agricultural prices. Agriculture became more commercialized. But such favourable results were inevitably attended by undesirable features. With an increase in agricultural prosperity, the moneylender came more to the fore. More tragic was the gradual growth of an army of unscrupulous middlemen. The poor ryot in his simplicity borrowed freely and without scruple, because the money was more or less thrown at him by a horde of creditors and prompt repayment was not insisted upon. The middleman with his wily ways absorbed almost all the surplus profits of agriculture. Land was mortgaged up to the hilt. Lack of education and co-operation, poor village communications and above all want of marketing facilities, made and still make the ryot an easy prey for profiteers. He does not save enough from a good harvest, to serve him as an insurance in case of a failure of crops. For one thing, there are no sound institutions within easy reach of him to put his savings into. Insurance facilities have not been extended to the small farmer. He has not been taught to save or balance his budget. His everyday wants are few, but now and then he "goes on the burst" and indulges in an orgy of expenditure for a marriage or a funeral.

Centuries of oppression might be expected to have turned the Indian farmer into a callous brute, whose finer feelings have all been soured. This is not so. The Indian agriculturist is still a fine fellow, surprisingly clean considering his environment and poverty, deeply experienced in the cultivation of the crops he has specialized in for ages, and with a really well-developed standard of honour. His sense of humour has not been scorched out of him. A friend of mine driving a car was held up by the inevitable cart in the middle of the road, with the old cartman lolling at ease in it with a cigar in his mouth. No amount of hooting or angry shouts could stir the old man into action. He appeared to be in a deep trance and not a sign of intelligence was visible in his vacant countenance. My friend got off his car and proceeded to exhaust himself by a stream of indignant words. Finally, he demanded in lurid language what the cartman meant by appropriating the whole road to himself when he paid no tax for it. The

old rustic heard the speech through quietly and at its finish replied with the laconic question "which came first into India, the cart or the car?"

It is not an impossible task, as so many people imagine, to educate in rural economics the ryot and labourer and to instil into him wisdom and thrift in managing his affairs as well as self-respect and a realization of the benefits of co-operation. He should be approached, however, with sympathy and understanding. He is naturally deeply suspicious of those who try to reform him, because of his bitter experience in the past; but patience and perseverance are bound to succeed with such pliable and essentially sound material. The Indian Statutory Commission have, like all other Commissions sent out to India, recognized the position of the agriculturist and state as follows:—

"In spite of the progress that undoubtedly has been made and of the great increase in the gross wealth of the country, the ordinary cultivator on his tiny plot is still a man of few resources with small means of meeting his limited needs—usually illiterate, though not on that account necessarily wanting in shrewdness with an outlook confined by tradition and environment and needing above all things that those who consider his future as a citizen should understand something of his life as a man."

19. *The rise in the standard of living.*—Mr. Pillai observes as follows: "The English labourers of to-day command many conveniences, comforts and luxuries denied to the nobles of Elizabeth's days. But the Indian labourer of Akbar's days, there is reason to believe, led pretty much the same life as his rural *confrere* of the present time. The great bulk of the population lived on the same economic plane as now. We cannot be sure whether they had a little more or a little less to eat, but they probably had fewer clothes and they were certainly worse off in regard to household utensils and to some of the minor conveniences and gratifications of life. One curious result of this unchanging standard of living is that, even when opportunities are afforded to the Indian labourer to earn higher wages, he uses his greater earning power to do less work, and enjoy greater leisure, rather than to earn more by working more regularly or by improving his efficiency." The explanation for this almost stationary standard of living and for physical and mental inertia can be sought partly in the poverty of the people, which prevents them from raising their standard of living, and partly in the lack of a desire to progress born of years of suffering and oppression.

The success of a wise, progressive and sympathetic administration can be gauged by the standards of living adopted by the people. Given proper education, a spirit of hope and

enterprise, freedom to expand in and a reasonable surplus over and above the bare necessities of life, the standard of living must increase. It cannot remain stationary. Through bitter experience, the Indian peasant's outlook on life is pessimistic in the extreme. It is only of late that there have been signs of a new attitude and a fresh vigour. A rising standard of living cannot lead to increased national prosperity, unless such a rise is accompanied by a stronger urge to grapple with difficulties, improve efficiency, and thereby earn more wages and wrest more from the land.

The series of years of high prices, before the economic depression, certainly have helped to raise the standard of living of the agriculturist. He wears better and more clothes, his food is more elaborate and tasteful, and he is inclined to spend more on sundries. Coffee and tea shops have sprung up like mushrooms all over the country. Where a yokel in the past would have cheerfully walked ten miles to get to his destination, he pays now for a bus ride. The increasing volume of unemployment among graduates, intermediates and S.S.L.Cs., has brought to the villages a band of discontented youths, with expensive and often vicious tastes and a contempt for manual labour and drab village life.

The increase in the standard of living has naturally added its quota to the volume of debt, especially so after the onset of the depression, when, in spite of the sensational fall in prices and rise in the value of money, the standard of living has failed noticeably to come down. A set of new wants satisfied by years of prosperity cannot easily be ignored when adversity sets in. The agriculturist, accustomed to his new standard of living naturally clings to it, even by borrowing in times of adversity.

20. *The money-lender.*—Much has been written about money-lenders and their ways. The Madras Banking Enquiry Committee has given a very detailed and good account of them. In several provinces, there are regular classes of money-lenders. In Madras, professional money-lenders, like Marwaris and the Chetti banking community of the Ramnad district, are not plentiful. Yet professional lenders of money are not as scarce in Madras as sometimes represented. Those, whose sole occupation is that of money-lending, drive a harsh bargain with the agriculturist and give little concession to him when he is in difficulties. The Marwaris in particular charge from 18 to 50 per cent simple or compound interest and often more. Their operations are distinguished by the most hard-hearted ruthlessness.

The lenders of money to agriculturists in this province are mostly agriculturists or traders. The ryot money-lenders own land themselves and belong to the same communities.

as the ordinary agriculturists. The ordinary interest they charge varies from 9 to 18 per cent. Loans are given mainly on pro-notes, on personal security or on joint security; but they are granted also on the mortgage of landed property. A short period is fixed for repayment of pro-note debts, generally a year or ten months, and interest has to be repaid in regular instalments. Creditors know very well that borrowers can seldom keep to the terms of repayment. If the interest is not paid on the due dates, penal interest from 18 per cent upwards is charged. The law of limitation of three years on pro-note debts leads to frequent renewals of pro-notes. At every renewal, the principal is entered with its unpaid interest (commonly penal rates) as the fresh principal. Hence, pro-note debt increases rapidly and heavily by the accumulation of heavy penal rates of simple interest, as well as by compound interest with three-year or shorter rests. When several renewals of pro-notes have been made, the debt has multiplied itself many times over and generally ends by being converted into a mortgage debt. Finally, the creditor forecloses and takes the poor ryot to court. Here the creditor secures his decree, generally *ex parte*, and eventually takes possession of most of the ryot's land. The ryot loses his land and becomes a tenant or a labourer. The creditor, whose landed property is thus gradually augmented, is little interested in cultivation. He lets out his lands on the best terms he can secure.

No receipts are given to ryots for repayments; but such are generally noted in pro-notes or other documentary evidence of loans. This is left to the will and pleasure of the creditors. There is nothing to prevent them from not noting them. Certainly, the repayments are not entered separately against principal and interest. The agriculturist borrower, who is often guileless, thrifless and an irresponsible simpleton, accepts as true all that the creditor says to him. Generally he does not exactly know what he owes at any particular time. He can tell you how much he first borrowed. He can also tell you the rate of interest. But he seldom calculates the total interest he has to pay every year and generally loses track of the repayments he has made. I was permitted by a kind agriculturist money-lender to examine his pro-notes and accounts. The accounts are simple day books. No separate accounts of interest and principal due are maintained. The backs of pro-notes contain entries of repayments. I am not able to say, however, if these are entered regularly and correctly. The balance due seldom seems to be struck except in the last stages, when the debtor is taken to court. The dictum 'once in debt, always in debt' is often too true.

Interest is frequently deducted in advance, so that the borrower is only paid his recorded loan minus the interest; but such deductions,

I fear, are not taken into account when the interest due is calculated subsequently. The recorded loan is treated by court as the sum actually paid to the borrower. These practices are in use among agriculturist as well as professional money-lenders. I give below a short resume of the results of conversations I had in the last six months with some typical money-lenders.

(a) *Conversation with a leading agriculturist money-lender of Chingleput district.*— (I have verified the facts from the documents themselves.) This gentleman is a Mudaliar. He pays a land revenue assessment of about Rs. 1,000 and, as the owner of a shrotriyam village, pays quit rent of Rs. 300. His money transactions now cover over a lakh of rupees. A large amount of his land was acquired by foreclosing on his clients when they were unable to repay their debts to him. He got the major portion of his land by court-sale but also came by some of it by private negotiations.

He keeps a set of accounts but does not render statements to his debtors, nor does he give them receipts. About two-thirds of the loans due to him are on pro-notes (mostly joint) on personal security. About a third of the loans are on mortgages of immovable property. Very little has been lent on jewels (he states that generally Marwaris and Nattukottai Chetties lend on the security of jewels), though many money-lenders are now anxious to lend on the pledge of jewels, seeing that land value has fallen so much.

He is strongly in favour of legislation for keeping and rendering accounts on the lines of the Punjab Acts. He is doubtful if registration of money-lenders will be practicable, but thinks it will be a good move.

He generally lends at 12 per cent simple interest; but writes down 24 per cent in pro-notes to put fear into his clients. He says he always charges simple interest, yet seems to have experienced great difficulty in collecting his dues in the last three or four years owing to the depression.

He is not at all in favour of debt conciliation, if such legislation will burden him with more land which he does not want. He wants cash and is quite prepared to compound for a reasonable proportion in cash. He declares that the period recorded in mortgage deeds is never adhered to and that, even though two and three years are mentioned, the average duration of a mortgage is over six years. The following pro-notes in his custody were examined:—

(1) Loan of Rs. 3,500 on 5-8-1931. Interest Rs. 1-8-0 or 18 per cent. (He says he actually collects at 14 annas.)

Repayments:—

Rs. 492 on 11-6-1932.

Rs. 600 on 12-4-1933.

Rs. 700 on 12-1-1935.

These repayments, though, entered on pro-notes, do not show separate accounts for principal and interest. According to him, the repaid amount of Rs. 1,470 represents interest for four years at 10½ per cent and the balance represents repayment of principal. (Unfortunately, it has not struck the creditor or the borrower to reduce the principal by the amount repaid, for calculation of future interest.) The creditor states that if debt is repaid out of court, 10½ per cent interest will be charged, but if the matter is taken to court, 18 per cent will be charged. (This condition presumably applies to the interest already repaid.)

(2) Loan of Rs. 1,882 on 15th February 1931, for discharge of previous debts. Interest at 12 per cent. No repayments of principal or interest subsequently.

(3) Loan of Rs. 3,000 on 22nd April 1931 at 12 per cent. Repayments recorded on pro-notes; Rs. 300 on 5th January 1932 and Rs. 500 on 31st August 1933. These repayments are said to represent interest, though not recorded as such. The creditor also declares that a sum of Rs. 200 was subsequently repaid. This sum is entered in the general account, but not on the pro-note.

There are several pro-note loans to agriculturists at 9 per cent and many renewal pro-notes in discharge of prior loans. These pro-notes are mostly on joint personal security.

The following are a few loans on the mortgage of immovable property, the documents of which were examined.—(1) Loan of Rs. 400 at 12 per cent interest on 27th January 1924, on mortgage of one house and one acre and 45 cents of land (mostly wet land), Rs. 250 repaid on 9th August 1930 and Rs. 50 on 31st March 1934. All this said to be for interest due. No principal repaid.

(2) Loan of Rs. 400 on 5th December 1929 at 12 per cent on the security of a house and one acre and 36 cents of wet land. No repayments.

(3) Loan of Rs. 2,000 at 12 per cent on 29th July 1925, on the security of 7 acres and 50 cents of wet lands. The following repayments have been recorded on the document and are said to represent interest:—

Rs. 240 on 4th September 1926.
 „ 250 on 29th September 1929.
 „ 240 on 5th December 1930.
 „ 240 on 17th September 1932.

(b) *Conversation with another agriculturist money-lender of Chingleput district.*—A Nayudu by caste. He was a cultivator pure and simple about five years ago. He started money-lending then in partnership with two others. They have lent out about Rs. 40,000 to Rs. 45,000 in cash and are repaid in cash. Only short term loans are dealt with, and money is lent only on joint pro-notes and not on the security of movables or immovables. Suppose A borrows Rs. 100; he is given Rs. 90 in cash, Rs. 10 being deducted for interest for ten months. The repayment should be made

in ten months in monthly instalments of Rs. 10. If instalments are not paid regularly a penal interest of 18 to 24 per cent is charged. The pro-notes all recite an interest of 24 per cent to be on the safe side, but the actual collection is only said to be 10 per cent for ten months. The money-lender declares he is compelled to take his clients to court nowadays as times are hard (which means that the penal rate of interest of 24 per cent comes into operation). The demand for loans is increasing, but less is being lent out. Interest is not rising, though credit is being shortened. Most of the present loans are for family expenses, as land is yielding very little in terms of money. The majority of the clients are small landholders with 1 and 2 acres of land each. Farm-servants and coolies are lent not more than Rs. 25 each. Tenants borrow as much as they can. Most of the land is pledged up to the hilt and often over and over again. The money-lender is agreeable to the scaling down of debts by debt conciliation boards, if the scaled down amount is discharged in cash.

(c) *Conversation with an agriculturist money-lender of Kistna district.*—He started with four lakhs capital and now has sixty lakhs. He charges interest at Re. 1-4-0 per hundred. He is not at all keen on getting back his capital, but wants only interest. He came by 1,500 acres of land at very low prices from his debtors. He always has hundreds of suppliant-debtors in his compound, crying out “save me!”. He says the Government must come to the rescue. When Rs. 30,000 has been lent out, he tells me that lenders will not accept land at once in payment, but will wait till the debt swells to Rs. 50,000 and then take all the land. He lets his land out on lease. Now no one borrows from him. Land has fallen remarkably in value during the last few years. The ryot is plunged into hopeless despair. There was a regular house to house visit by money-lenders in 1928-29, who forced money on ryots, even when they were unwilling to take loans. All lands are now either attached by or mortgaged to money-lender. The Kistna and Godavari ryots are bound hand and foot. There is a network of cross-sureties taken for pro-notes. The money-lender wants a stay of all proceedings against land for a definite period for recovery. He is eager for a settlement of debts, for he has learnt a bitter lesson. Money-lenders are putting much pressure on their clients in the last few months through fear of Government interference.

(d) *Conversation with an agriculturist money-lender of Ramnad district.*—He is a Nadar by caste. He has lent out over two lakhs. He now finds great difficulty in getting back even interest. He lends at 9 to 12 per cent and tries his best to avoid civil courts. He negotiates privately with debtors and tries to buy their lands in discharge of debts. He leaves a bit of land over for debtors. When he gets lands, he leases them out, or leaves them waste. He does not

generally lease out to the ex-debtor. He buys land at the present market rate. He prefers cash to land. He will forego interest, if he can get back the principal in cash. He finds that farm-labourers are generally not much indebted.

Court-fees and court costs are extravagant and the law's delays are tremendous. He has to incur as much as Rs. 50 to Rs. 100, in costs for a suit for Rs. 100. He proposes disposal of civil cases by lots, as the "decision in civil courts are often so frivolous and arbitrary." He says that he is compelled to bribe all court officials except the Judge! He wants quick decision and not this dragging on.

(e) *Conversation with two prominent Nattukottai Chetti, bankers of Karaikudi in the Ramnad district.*—These are large landholders under the Sivaganga zamindari. They lend out in India only to cultivating tenants. They find no difficulty in collecting payments. They take principal and interest from the thrashing-floor. They go to court only in about two out of ten cases. They lend ordinarily at 9 to 12 per cent compound interest with one yearly and six monthly rests.

When they go to court, they say they have to pay *mamuls* to process-servers even for summonses and very much more for executions. If they do not give these bribes, the process-servers will go to the defendant for money. These practices are absolutely common and general according to them. There is much delay in civil courts. The difference in production and price of paddy in Burma and India is not due to the difference in the incidence of land revenue. They are due, because, in Burma, the people work harder, the land is better, the rain is more regular, land value is less and cultivation is more scientific than in Madras. Much land in Burma, the Federated Malay States and India is passing into the hands of Nattukottai Chettis, who want to sell but cannot find buyers even at 25 per cent below the present market value. In the Federated Malay States, disposals in civil courts are much quicker than in India and court-fees are less. A civil suit in the Federated Malay States is on the average disposed of in one or two hearings and not civil courts are much quicker than in India. The registration of documents in the Federated Malay States is better. The original documents—sale records, etc.—are invariably consulted and used for recording all subsequent transactions. Official receivers are much quicker at their work and there is less bribing of *amins* and other court officials.

Many high placed officials and experienced non-officials have declared that the problem of agricultural indebtedness is not acute in this Presidency, because most of the credit comes from the agriculturists themselves, who are accommodating and sympathetic and not addicted to the malpractices, which have made the professional money-lender a by-word. The examples I have given of typical agriculturist money-lenders will show, that even if deliberate malpractices are few, the system

of accounts maintained and the methods of lending adopted are loose, unsystematic and capable of gross abuse by the unscrupulous. The borrower is such an ignoramus that he is entirely at the mercy of his creditor, once he has borrowed. One of the District Judges whom I have consulted remarks as follows: "I have little doubt that in many instances agriculturists are deliberately cheated by money-lenders, who secure from illiterate victims more than what is intended; and when the security is eventually sued upon there is nothing but the word of the ignorant victim against the evidence of the written evidence, that the consideration was much less than what is set out therein. A common practice is for the money-lender to deduct from the principal amount anything from 10 to 20 per cent as 'advance payment of interest'. This is of course failure of consideration from the outset to the extent deducted, but future interest continues to be calculated on the principal amount shown in the documents." One cannot but agree with Mr. Darling when he says, "There is little to choose between him (the agriculturist money-lender) and his professional rival. The one is as harsh as the other is astute, and both are demoralized by the system under which they work. Under this system, the creditor is in danger of being turned into a tyrant and the debtor into a serf. The cultivator sows that another may reap, and toils that the creditor may gain. Of what use to him, then are all the devices for improving the quantity or the quality of his harvest? As well teach him to convert his bullock-cart into a lorry, for all the good that it is likely to do him. Economic freedom is a condition precedent to progress, and to the Indian cultivator no progress is possible till the power of the money-lender, agriculturist or *bania*, is broken. As a German writer says, 'usury must be fought to protect not only the weak but the whole industry of agriculture against a parasite which threatens its foundations'."

Though, considering the risks involved, fairly moderate rates of simple interest are ostensibly charged, these rates of interest from 9 to 18 per cent are really seldom, if ever, applied. In reality the heavy penal rates of 18 per cent and upwards are in force. These are the rates which are entered in documents for the edification of courts. The law of limitation helps the lender to charge compound interest with frequent rests. Often enough, compound interest is charged with yearly rests. Agriculture as an industry gives a return of from 2 to 5 per cent in a normal year. To borrow for such an industry at even 9 per cent is therefore unsound, and obviously such loans cannot be repaid without encroaching upon capital, which is the land itself. In order to repay loans, agriculturists borrow again and again. So the standing debt gradually increase till it overwhelms the small and medium landholder and deprives him of his land, leaving him helpless and destitute. One poor ryot, whom I examined, borrowed Rs. 40 on pro-note a few

years ago. He was forced to renew the loan several times and finally renewed for Rs. 400, to which the loan had swelled in a few years by the accumulation of unpaid compound interest. The moment this renewal was made, the creditor took the ryot to court and got his decree for Rs. 400 with ease. He took possession of all the ryot's land, which stood at about this value then, but which was worth about Rs. 1,000 before the depression. The ryot is now landless, having had to part with land worth at one time Rs. 1,000 in discharge of a paltry loan of Rs. 40.

Traders and middlemen also lend money to agriculturists. They lend generally for cultivation expenses at very high rates of interest. Loans in kind, like the grain loans in Cuddapah known as "Nagu," bring in interest from 50 to 100 per cent per annum. These are generally short-term loans repayable in 3 to 12 months and are collected at the thrashing-floor at harvest time, or at the houses of the landholders. The emissaries of these money-lenders squat upon the land or in the *payals* of the houses and refuse to budge till the loan is paid. They employ threats, and, I fear, often resort to force. They charge a daily *batta* for the days of waiting. The desperate agriculturist has to part with most of his grain. If this is not enough, he rushes about borrowing from others. The need is so great that money or grain is borrowed on any condition and at any price.

Traders, especially in isolated localities with difficult means of communication, as in the Palni Hills of the Madura district, hold a monopoly in general stores. The ryots must get their supplies like provisions and clothing, from them. Advantage is taken of this monopoly to drive iniquitous bargains. As the ryot usually has no money to offer, he has to borrow his stores. The interest charged is often over 100 per cent. The quality of the articles is unsatisfactory—bad grain, poor clothes, etc. The prices are exorbitant and the interest charged startlingly high. But worse still, these traders usually stipulate, when lending, that the ryot must sell his produce to them. The prices given them are absurdly low. False measures and weights are freely used and in every way the ryot is held in a relentless grip from which he cannot extricate himself. These malpractices have gone to such lengths in the Upper Palnis that potato cultivation has practically been abandoned.

The agricultural labourer generally has no land to offer as security for his loans. He can only offer himself. So, as in the *gothi* system of the Vizagapatam Agency, a labourer who wants a loan gets it on binding himself and often his family to service under his creditor for periods which extend to many years. This type of borrowing is found in some form or other scattered all over the Presidency. Once bound to slavish service in this way, the labourer finds it difficult to

extricate himself. The creditor seldom keeps to his contract, and rarely releases his virtual slaves after the period stipulated has been served. By fraud or subterfuge, he tries and often succeeds in binding the labourer for life to his service. When I was serving as Special Assistant Agent at Koraput, desperate labourers came to me in hundreds, praying for succour from their relentless masters. Such forms of virtual slavery are relics of the pre-British India. They are abominable customs, which should be rooted out by legislation. "The evidence set forth in the Report on Slavery of 1841 shows clearly enough that serfs were a normal element in the rural population of pre-British India. It says that something like slavery existed in the North Indian provinces up to the period at which they were under British rule. Even at the present day, the Pulayas of the Malayalam countries, the Padials of the Madras Presidency and the lowest classes of agricultural labourers in the Bombay Presidency and the Central Provinces occupy pretty much the same position."

The money-lender has no doubt served a useful purpose in supplying credit to agriculturists. But the almost fatal ease, with which such credit can be obtained, and the high rates of interest charged, have led to the present overwhelming burden of standing debt. These creditors do not trouble to find out whether the money they lend out is for a productive or an unproductive purpose. It is, therefore, necessary to substitute for such credit a much cheaper and regularized form.

21. *The middleman and the lack of marketing facilities.*—By middlemen I mean all the classes of speculators and traders, who act as intermediaries between the agriculturist producer and the consumer. More specially do I refer to those who connect the producer with the retail seller, the exporting merchants and firms and the factories and firms which buy raw material and convert it into finished products or products fit for export. In the past, when lack of communications limited the Indian market to localities in the vicinity of the producer, and when the Indian market had little or no connexion with world markets, the agriculturist was often able to sell to the consumer direct in fairs and shandies; and the problem of the middleman hardly arose. Now, with a network of quick railway communications and fast shipping connecting all parts of the world together, the middleman has stepped in and firmly established himself.

While the money-lender serves a useful purpose in supplying money to the ryot, the middleman serves an equally useful purpose in acting as a channel for the distribution of produce from the remote village to the markets of the world. But the money-lender, as we have seen, has become a danger to the peasant. In the same way, the middleman has abused his position by wresting nearly all the surplus profits from the ryot. Especially burdensome

are the operations of the middleman or trader, when he also lends to the ryot for cultivation expenses, at interest which may be anything up to 100 per cent, on the condition that the crop is sold to him. This type of middleman makes a double profit. He profits by lending as well as by buying, if such a term as buying can be used for the coercive methods adopted by this wily class in forcing the needy and ignorant ryot into parting with his produce.

There is a certain season in the year, generally from January to March, when the principal crops are harvested and when the agriculturist is compelled to get ready money to pay his land revenue and other commitments. The prices of grains and other agricultural produce are the lowest at this period. Yet the ryot is compelled to part with the major portion of his produce in order to find money to pay his dues. It is at this critical time that the middleman is on the prowl. He is helped by lack of facilities for storing crops in villages and towns. The want of godowns and of a reliable and cheap credit agency to advance on the security of crops, compels the ryot to part with his produce at this critical period to the middleman and trader. If he could only obtain an advance for his immediate needs and hold over selling for a few months longer, he would obtain much higher prices.

An officer of the Agricultural department with some others went *incognito* to a road, along which the ryots were in the habit of taking their produce from a group of villages to town. They watched near a *mandi*, as the shop of a certain class of middlemen is known. A cart containing bags of groundnut came by. The middleman and his minions came out of the shop with sticks in their hands. While two or three engaged the driver and his companions in conversation, the others commenced removing the bags of groundnut from the back of the cart. The cartman and his fellows soon spotted this and protested, saying they wished to sell their groundnut in the town. Their protests were in vain. By persuasion and by threats and even by the use of force, this middleman and his men, who might as well be called dacoits, forced the poor ryots to sell their produce to them. The price they paid was fixed by them. No protest by the ryots was of avail. So the ryots with a little money in their pockets turned their empty cart and went back to their village.

Quite apart from the often arbitrary and ridiculously low prices paid by middlemen, the commissions they take and the deductions they make for various alleged purposes like charity are legion. But, above all, the ignorant ryot is duped by false weight and measurement. One way is to use false weights and measures, not stamped by the Government stamping party. The middlemen keep one set of proper weights and measures for inspection and another for weighing and measuring. They are helped in the use of such false standards by the

bewildering variety of weights and measures in vogue in the country, which vary not only from district to district, but often even from taluk to taluk. The stamping party often prints its stamp near the tops of the measures. So, these can be, and I believe are, cunningly altered at the bottom without interfering with the stamps. Even with genuine weights and measures, an experienced measurer can without detection make a false weight or measurement in spite of the closest watch. So clever are these men. I would estimate the loss to the agriculturist by false weight and measurement at from 5 per cent to 30 per cent. There are other means of cheating, like sprinkling water on the grain before measuring.

I interviewed a deputation of ryots at Coonoor, who represented their grievances about potato cultivation and marketing. I verified from officers of the Co-operative and Agricultural departments that these grievances were substantially genuine. They are as follows:—

Ryots on the Nilgiris, as in other similar places, are unable to cultivate their lands or buy provisions without borrowing. They borrow from traders and merchants generally at Mettupalaiyam at the foot of the hills. If artificial manure is bought, interest at Rs. 2 per bag of manure, which is worth Rs. 12 is charged for a period of three months. This amounts to 67 per cent per annum. Provision dealers supply provisions on credit and bind the ryots to sell their potato crop to them. If rice is lent, a measure per rupee is taken as interest at the outset and further interest of 24 per cent charged. Repayment should be made in a year. These lenders bind the ryots to sell their potato crops to them. The latter have to cart the potatoes to Mettupalaiyam at their own cost, a distance down the *ghat* of from 15 to 30 miles. They are paid a price of from Rs. 3-8-0 to Rs. 4 per bag of about 200 lb. These merchants and dealers eventually sell potatoes at Madras for Rs. 8 a bag, after meeting all costs of transport, etc., and make a net profit of about Rs. 4 a bag. If ryots want seed potatoes, they are obliged to buy them at Rs. 7 to Rs. 8 a bag while they themselves sell at Rs. 3-8-0 to Rs. 4 a bag. They are compelled to sell at Mettupalaiyam at any price offered; often they are not paid immediately, but are told to go back to the hills and return later for payment. When they return to Mettupalaiyam, the dealers pay them, after deducting for what they allege is for damaged potatoes and so on. False weights and measures are freely used. The prohibition rules on the hills for Badagas induce them to go to Mettupalaiyam frequently to drink. They spend much of what they get for potatoes at Mettupalaiyam on drink and return almost empty-handed.

I submit that the retail prices in ryot's selling months, published by the Board of Revenue and adopted for revenue and settlement purposes often may not represent the

actual prices which the ryot gets. Especially is this so for special crops, expensive to raise, like sugarcane, tobacco and cotton. The coast land in South Kanara, south of Kasargod, is cultivated with excellent tobacco. The Mappilla who specialises in this form of cultivation is compelled to borrow at exorbitant rates of interest from middlemen, who stipulate that the tobacco must be sold to them. The ryot is compelled to sell at about Rs. 6 a unit of tobacco. The tobacco is eventually sold at Rs. 20 a unit in the open market. It is a fallacy to assume that special crops bring in heavy profits to the cultivator. They will certainly do so, if chief credit is available for cultivation expenses and the middlemen do not swallow almost all the surplus profits. But, as things are at present, the cultivator of special crops is even more hard hit than the agriculturist who sticks to paddy cultivation. Like vultures, these traders and dealers hover over the areas under special crops, ready to devour the helpless ryot.

Mr. T. Adinarayana Chettiar has written an excellent report on *Marketing of agricultural produce in South India*. The following are extracts from his report, which are only too true:—

“That the average farmer is unfitted by education and upbringing, not to speak of his want of belief in his own destiny, to fight against the organized, clever and resourceful buyer is only a truism. One can see in any weekly market a bag of onions being sold for four annas or even less and a bunch of about 150 bananas for 2½ or three annas, not as a rare occurrence but as a daily fact. Want of marketing intelligence, which, in the case of industrial products, is hourly shifting, the smallness of the farmer's output, the absence of access to the markets, the perishable nature of his produce and above all his want of financial position to hold out against better prices—all these combine to produce this unfortunate result. The remedy lies in organization and finance. . . . The practices of the wily middleman in groundnut trade would stagger imagination, not to speak of the plight of the ryot who had taken advances from the Sowcar-trader on the express understanding that he is to sell his produce to none else. The false market prices quoted by the buyer, the false weights he uses and the innumerable deductions and above all the deduction for charity are common knowledge. The Bombay dealer has invented another deduction, viz., the *pinjrapole*. . . . In South Arcot, in addition to the illegal deductions, there is the practice of *thallupadi*, i.e., knocking off two pounds for each lot handled, besides the liability to personal motive and forcible bringing in of the crop-laden carts to the middleman's *mandies* (depots). Although in the case of goods, the trade of which is no longer local, e.g., cotton and groundnut, it is easy to know the current rates telegraphically; when the middleman goes with money to the ryot's door and forces an advance on him, this knowledge is not

available to the ryot. As regards perishables, the profits made by middlemen are even more. Green plantains and betel leaves travel up to Kanauj and up to the very foot of the Himalayas. There are no ready means of ascertaining the current prices in the purchasing provinces. That this trade is not negligible would be evident from the fact that in three railway stations in Trichinopoly district green bananas are booked to the value of Rs. 5 lakhs. Mangoes lend themselves to similar handling. . . . The middlemen and the indigenous bankers now undertake the financing of the ryot with the unavoidable result that the ryot's margin of profit is next to nil. Lack of funds handicaps the ryot not only as a purchaser but as a seller as well. For, if he is in debt to the middleman, he is compelled to sell his produce immediately after harvest when prices are low. Often he is in want of money even to cart his produce to a central market. Financial help will render the ryot a more competent seller, i.e., increase his bargaining power.”

22. Litigation, local politics and faction.

These three causes are more closely interwoven with each other than may be imagined. The increasing interest in local politics compels the villager to take sides with rival parties contending for office in the various elective bodies—panchayat boards, municipal councils, taluk boards (since abolished), district boards, the Legislative Council and even the Assembly. Election time is a period of extravagant moneyspending, upheaval and turmoil. Much bitter feeling is both engendered and augmented. There is a growing tendency for leading lights in villages to plunge into local politics. The inevitable law tout is always ready to do his bit of propaganda for litigation, and no doubt one of his main causes of success is the existence of party feeling and faction.

There are certain districts famous for their factious villages. Guntur and Tinnevely may be cited as examples. Members of rival castes and communities spend all their spare time in consolidating their own position and in trying to do the other side down by fair or foul means. False cases are concocted by hundreds, riots and even murders are common occurrences, and much money is wasted. A lawyer frankly told me that he would put litigation and the presence of the law tout in the village as the main causes of indebtedness. Members of factious villages are always going to civil and criminal courts miles away from their homes. The frequent adjournments drag these cases on for months and even years. The moment these cases are decided, appeals are launched as a matter of course till the highest tribunal is reached. Experienced lawyers are engaged and money is spent like water on lawyer's fees, court fees, mamools to court subordinates as I am told, *batta* to witnesses, fees to petition writers and touts, the manufacture of false documents, bribes to false witnesses, food for the gaping crowd, which invariably follows the contending parties to court and so on. When all

appeals have been exhausted, fresh cases arise out of the ashes of the old like the mythical phoenix. The intricacies of Hindu and Muhammadan Law and the complicated forms of land tenure help to swell litigation. Faction, politics and litigation therefore are together responsible for much of the unproductive debt. This is the view of a District Judge whom I consulted: "I consider that one of the principal causes of indebtedness in this Presidency is the passion of the Indian villager for litigation; a passion which is undoubtedly encouraged by the system of *touting* which is all too prevalent. Unfortunately, the Indian villager can never appreciate when his cause is lost. He refuses to recognize the fact and to accept the decision as final. Instead he continues to throw good money after bad and goes on hypothecating his family property and pledging his all in a vain attempt to win at the last fence. In this he is encouraged by the village law touts who encourage false hopes from a purely selfish motive of getting a little commission for themselves out of the business. One constantly comes across appeals and suits and other matters which never had a chance of success from the outset. They should never have been brought and in some cases this is so obvious that one is inclined to suspect that some vakils encourage their clients to persist in foolish litigation instead of being honest and advising them to cut their losses and save their money."

Villagers have too much idle time on their hands. They have all their evenings free and have no cultivation to do for about six months in the year. No wholesome recreations are available, such as wireless sets, cinemas, theatres, playgrounds or other places of corporate amusement and exercise, where they can while away the idle hour in mutual enjoyment. This leads not only to lack of corporate life, but tempts the villager into mischief. Faction and litigation are the chief forms of amusement the villager has. The game of local politics is also absorbing to him. "Satan finds some mischief still for idle hands to do." In case the factious spirit is showing signs of waning and members of rival parties are found shaking hands, the leaders are always there to whip fresh life into villagers. The village munsif often takes the lead of one party against his old rival, the karnam. One or the other is a member of the local panchayat court or forest panchayat. It is considered fair play to down the enemy even in these courts of justice and communal grazing grounds. In this way, every incident in village life is magnified by interested persons into an affront to some one or other, and ill-feeling, spite and all the other ingredients which go to prevent real co-operation among villagers, are kept alive and periodically fanned into flame.

23. *Ceremonies.*—The landless Indian labourer who earns from four to eight annas a day during the cultivation season, actually spends about Rs. 100 on a single marriage.

The small landholder with 2 to 20 acres of wet land will spend anything from Rs. 200 to Rs. 500 on a marriage and the big landholders with 20 to 100 acres of wet land incur debts up to several thousand rupees on each marriage. None of these classes can, therefore, celebrate marriages and many other ceremonies without generally having to borrow; and, as cheap credit is not readily available, the money-lenders are generally the creditors and they, as we have seen, charge very heavy rates of interest. Thus, the cost of a marriage frequently binds an agriculturist in debt for life. Yet, he is compelled by custom and religion to spend such exorbitant sums. If he does not do so, he runs the risk of public ridicule and often of social ostracism.

The general impression is that most of the expenses incurred in marriages are sheer waste. This is not quite true. Much of the expenditure is incurred in purchasing jewellery and vessels. Much goes in the form of dowries paid to young men, who use this money for education and other useful purposes. Dowries are paid for women in some parts, and often a woman is economically worth all that is paid for her. The Kapu woman is a splendid specimen, stalwart and hardworking. She earns almost as much as her husband does. She works as hard as he does, if not harder in field and at home.

Among certain classes in the Coimbatore district, however, a marriage is not the occasion of pecuniary loss, but rather a means of replenishing the family coffer. All guests are expected to give the host presents in money; so much so indeed, that when a creditor presses a man for his dues, the man replies, "wait a short while when there is to be marriage in my house. I shall then be able to pay all I owe."

All said and done, however, expenses on ceremonies are far too heavy a burden. The agriculturist should be taught to cut them down to suit his means. This is the view of an experienced District Judge whom I consulted: "The root cause of the indebtedness of the agriculturist is, I am convinced, not the increase of facilities for borrowing owing to the improvement of the machinery for recovery of debts, but the growth of bad social habits resulting in reckless extravagance on marriages, funerals, and ceremonies generally. . . . The real way to tackle this question is, in my opinion, not to impair commercial morality and weaken the sanctity of contracts, but to educate the ryot into some small measure of financial prudence. If only agriculturists could be persuaded to control their expenditure on special functions with reference to their power to meet this expenditure, the trouble of agricultural indebtedness would largely disappear."

The recent economic depression I am told has had a splendid effect in bringing down marriage expenses to almost half of what they were in pre-depression days. The gold vessel has in many cases made way for the silver,

which in its turn has been superseded by brass. One-day marriages are becoming increasingly popular. It is to be hoped that this hard-earned lesson will not be forgotten in the future. I understand that in certain parts of Malabar a number of families arrange for a simultaneous celebration of their marriages, so that a single celebration will suffice. The expenses are clubbed and are therefore

most moderate per family. The Sarda Act has had a good effect in driving underground marriage of under-age girls. These secret marriages finished overnight cost very little compared with those spread over days of celebration, feasting and music.

24. *Over-population.*—I append below a statement showing figures relating to population, etc., in 1921 and 1931.

STATEMENT No. 9.—Statement showing figures relating to population, etc., in the Madras Province in 1921 and 1931.

Year.	Total population in millions.	Area in square miles.	Density per square mile.	Area not available for cultivation.	Cultivable waste other than fallow.	Current fallows.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
				ACS.	ACS.	ACS.
1921	42.32	142,300	298	21,411,397	12,178,856	10,032,332
1931	46.74	142,300	329	20,515,113	13,099,433	10,704,152
		Net area sown during the year.	Holding (9)			Average holding per head of population.
		(8)	Wet.	Dry.	Total.	(10)
		ACS.	ACS.	ACS.	ACS.	CENTS.
1921		33,012,244	5,163,821	20,963,663	26,127,434	62
1931		33,495,798	5,361,041	22,250,290	27,611,331	59

(Figures in columns (5) to (8) are for the years 1921-22 and 1931-32 respectively and those in column (9) are for faslis 1330 and 1340 respectively.)

While the population increased between 1921 and 1931 by 10.4 per cent, the net area sown rose by only 1.5 per cent and the total

holdings by 5.7 per cent. The following table exhibits densities per square mile in different provinces and countries.

STATEMENT No. 10.

Province (British territory) or country.	(Area 1,000 sq.m.)	Rank by area.	Population (Millions).	Rank by population.	Density per square mile.	Rank by density.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Burma	233.7	1	14.67	8	63	9
Madras	142.3	2	46.76	3	329	4
Bombay (excluding Aden).	123.6	3	21.80	6	176	6
United Provinces	106.3	4	48.41	2	455	2
Central Provinces and Berar	99.9	5	15.51	7	155	8
Punjab	99.0	6	23.58	5	238	5
Bihar and Orissa	83.05	7	37.68	4	454	3
Bengal	77.5	8	50.11	1	646	1
Assam	55.0	9	8.62	9	157	7
Belgium	11.7	..	8.13	..	692	..
England and Wales	58.3	..	39.95	..	635	..
Great Britain	88.7	..	44.89	..	505	..
Prussia	113.8	..	39.30	..	345	..
Italy	119.7	..	42.16	..	352	..
Poland	150.0	..	31.9	..	210	..
Sweden	173.1	..	6.10	..	35	..
France	212.9	..	41.0	..	195	..
Japan	260.8	..	85.10	..	330	..
Persia	628.0	..	10.0	..	20	..

Among Indian provinces, Madras occupies the second rank in area, the third in population and the fourth in density. Indian provinces, as has been often repeated, are mainly agricultural. They are not strongly industrialized and more than 70 per cent of the people are supported by agriculture. Yet their densities are high and only the strongly industrialized countries of the West exceed Madras in density. Madras now holds more people than Great Britain, the small lead of

the latter in 1921 having been converted into a Madras lead of nearly two millions. While Bengal increased by 7.3 per cent and the United Provinces by 6.7 per cent, Madras from 1921 to 1931 recorded a lead of 10.4 per cent, only exceeded by Bombay, the Punjab, Burma and the Central Provinces. The following statement taken from the latest census report exhibits density of population, water-supply and crops, for the districts in the presidency.

STATEMENT No. 11.

Name of division and district.	Percentage of total area.		Percentage of cultivable area.			Percentage or gross cultivated area under							
	Density in 1931.	Cultivable.	Net cultivated.	Net cultivated.	Double cropped.	Percentage of cultivated area irrigated.	Rainfall.	Paddy.	Cholum, cumbu and ragi.	Other food crops and pulses.	Groundnut.	Cotton.	Other crops.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
PROVINCE	323	61.9	37.4	60.4	8.1	23.6	52.16	23.8	27.0	22.1	6.8	6.2	9.2
Agency	89	37.8	14.4	38.1	0.8	6.7	54.90	39.7	21.1	17.9	9.1	0.2	21.0
East Coast, North	386	68.0	42.7	62.8	12.5	40.0	38.88	39.1	23.8	20.7	2.4	2.3	11.7
Ganjam	423	62.4	44.8	71.8	14.6	46.8	43.10	62.3	13.3	16.1	1.9	0.1	6.3
Vizagapatam	534	62.4	38.7	62.1	22.7	38.5	37.53	28.2	29.5	22.4	4.6	1.1	14.2
Godavari, East	600	70.2	50.3	71.7	20.5	50.4	41.40	50.3	13.1	19.0	..	0.7	18.9
Godavari, West	518	88.7	61.5	61.6	15.1	67.6	42.00	67.9	9.8	11.4	0.6	0.1	10.3
Kistna	354	80.2	53.0	66.1	8.6	44.8	38.50	44.7	23.6	13.8	1.7	4.0	12.2
Guntur	354	76.5	56.4	73.9	10.3	15.5	32.01	16.2	27.0	31.0	4.7	5.2	15.9
Nellore	187	58.4	24.7	42.3	4.9	42.9	37.25	23.4	42.5	20.6	0.5	2.6	5.4
Deccan	153	67.7	44.2	65.3	2.3	8.9	23.88	3.7	35.4	31.3	11.9	13.7	4.0
Cuddapah	160	54.5	28.1	51.5	4.3	23.5	27.19	9.2	42.9	19.7	18.0	6.4	3.2
Kurnool	135	59.1	42.2	71.4	2.0	5.7	22.61	2.9	34.1	32.2	14.4	13.1	3.3
Banranapalle	153	70.9	63.5	79.4	0.2	0.9	21.70	0.1	46.0	12.7	8.6	27.1	6.5
Bellary	170	82.5	64.6	78.2	1.6	2.9	21.70	1.3	37.4	29.6	7.0	21.8	2.9
Bandur	86	13.7	11.0	80.4	..	1.6	23.37	0.1	63.4	26.3	2.0	1.6	6.6
Anantapur	156	77.0	43.2	56.1	2.2	11.7	21.44	4.5	29.3	40.5	11.8	7.3	8.1
East Coast, Central	417	57.6	36.3	63.0	11.5	34.0	39.60	23.9	34.0	19.3	13.1	4.1	5.6
Madras *	318	..	..	..	..	..	51.63	..	..	..	..	..	..
Chingleput	535	56.5	39.4	60.8	17.4	67.1	47.97	70.2	11.8	7.1	4.6	..	6.3
Chittoor	245	49.7	18.7	37.6	7.7	38.6	33.69	23.0	42.6	18.1	10.5	0.1	5.7
North Arcot	488	54.8	36.9	67.2	14.3	38.0	36.88	30.9	22.1	17.3	24.2	0.2	5.3
Salem	345	57.6	35.2	61.1	9.9	16.5	30.01	7.3	46.4	31.0	6.5	2.6	6.2
Coimbatore	345	60.1	41.8	69.6	10.6	27.4	29.53	4.7	40.3	20.1	6.1	14.0	5.3
South Arcot	583	68.8	50.3	73.0	12.5	40.4	47.51	35.4	17.9	14.8	27.1	0.1	4.7
East Coast, South	463	72.6	47.1	64.8	7.0	41.1	36.68	33.8	24.3	20.4	4.5	10.1	6.4
Tanjore	638	72.0	56.0	77.8	7.7	73.0	46.33	74.7	3.6	10.0	6.0	0.1	5.6
Trichinopoly	443	78.4	47.4	60.5	6.2	26.7	31.91	19.0	42.7	22.3	7.2	3.4	5.4
Pudukkottai	340	66.6	39.3	59.0	0.2	34.2	35.03	35.2	21.0	25.5	13.7	0.4	4.2
Madura	447	68.6	40.1	58.5	8.2	40.2	33.18	22.3	29.1	27.4	4.5	11.7	5.0
Ramanad	382	77.2	52.5	68.0	3.6	30.4	33.11	27.1	26.8	20.0	2.3	18.1	5.7
Tinnevely	473	69.4	44.1	63.6	11.4	35.1	34.11	24.6	22.7	21.5	0.8	20.1	10.8
West Coast	471	64.0	30.0	40.6	10.7	..	120.39	57.7	0.9	17.0	0.1	..	24.8
Nilgiris	172	40.4	12.5	31.0	1.6	..	77.33	7.0	3.4	29.0	..	..	60.6
Malabar	610	68.2	38.9	57.1	10.8	..	123.26	51.3	0.8	19.1	0.1	..	28.7
Aniengo	6,766	91.7	39.9	98.0	..	..	..	..	..	..	..	..	100.0
South Kanara	341	63.9	21.4	33.5	12.0	..	155.57	77.9	0.9	11.0	..	..	10.2

* Not treated as an agricultural district: taken as not available for cultivation. No rain gauge.
Columns 3-14 are average of years 1931-40, i.e., July 1921-July 1931.

The agency tracts are the most thinly populated. In Tanjore, Malabar and East Godavari, the density exceeds 600 per square mile. Vizagapatam, West Godavari, Chingleput and South Arcot have densities over 500 per square mile. Nellore, the Nilgiris and the four Ceded districts are thinly populated with densities under 200 per square mile. The remaining districts average between 200 and 500 per square mile. The increase in population is outstripping the increase in the area cultivated and, barring calamities and assuming the same rate of increase as in 1921-1931, the area of holding per individual is bound to dwindle steadily. There is much truth in Dr. Gilbert Slater's note of warning: "No policy, however wise, can lift the Indian population out of poverty as long as the conventions hold almost universally that every girl must be married young, must begin bearing children as soon, or almost as soon, as she is capable of doing so, and must continue to bear children till exempted by death or the cessation of fertility."

25. *Fragmentation of holdings.*—As Mr. G. Keatings observes, "To a great extent, no doubt, the uneconomic holding is the result of the Hindu law of inheritance. By this law

every male member of the family obtains a share in the ancestral property of the family not only on his father's death but at his own birth; and, like the Prodigal Son in the parable, he may demand a partition of the property at any time." This leads naturally to the question, what is an economic holding? The same author observes, "It is a holding which allows a man a chance of producing sufficient to support himself and his family in reasonable comfort, after paying his necessary expenses."

There are few such economic holdings in Madras. The cause is partly that the majority of the agriculturists have small holdings from 1 to 10 acres of land, and chiefly that these holdings, big or small, are not in one compact block, but scattered in small bits all over a village or often distributed amongst several villages.

The ultimate unit of land for revenue purposes is the subdivision or whole survey field; and seldom does a holding, consisting of several fields and subdivisions, form a single compact block. Ancestral property (inherited or obtained by partition), self-acquired property and so on form together holdings made up of

a large number of scattered bits. Subdivisions especially in wet lands are often extremely small and irregular in shape. The

following statement will illustrate clearly the small size of wet subdivisions and whole survey fields:—

STATEMENT No. 12.—Small wet holdings in Chingleput taluk.

Name of village.	Total extent of wet holding.	Total number of the fields including sub-division in the village in respect of wet holdings.	Average area of sub-divisions and whole fields.	Name of village.	Total extent of wet holding.	Total number of the fields including sub-division in the village in respect of wet holdings.	Average area of sub-divisions and whole fields.
	ACS.		CENTS.		ACS.		CENTS.
100. Hanumanthapuram ..	282-02	603	47	Siruseri	103-48	237	43
Dasarikuppam	106-32	333	32	Kandalur	100-93	283	36
Madayathur	278-35	624	45	Pulipakkam	203-29	533	38
Settipatturamaiyan-	91-50	585	16	Natham	198-55	551	36
kuppam.				Vallam	198-37	370	54
Kottamedu	307-48	948	32	Venbakkam	76-37	236	32
Kumili	120-67	732	16	Olalur	558-42	1,075	52
Edakundram	135-21	453	30	Nemmeli	326-43	396	82
Poondi	103-20	380	27	Krishnankaranai ..	80-66	441	18
Royamangalam	185-51	399	46	Pattipulam	203-05	387	53
Otteri	191-46	464	41	Saluvankuppam ..	153-44	970	16
Pooluppai	169-69	325	52	Ninnakarai	342-98	980	35
Oragudam	527-13	1,027	51	Kattankolathur ..	295-87	509	58
Mullikolathur	311-96	1,083	29	Karanaipuducheri ..	370-66	927	40
Nalloor	200-39	1,057	19	Guduvancheri	176-11	409	43
Amaipakkam	69-34	116	60	Nandivaram	506-72	1,221	42
Nathamkariacheri ..	674-34	1,749	39	Unamancheri	460-48	974	47
Meyyur	206-02	465	44	Tirukachur	373-30	1,542	24
Palur	2,522-05	5,079	50	Kilakaranai	124-29	359	35
Melamanapakkam ..	81-82	393	42	Kalvoy	482-00	1,521	32
Chettipuniam	375-50	940	40	Settamangalam ..	73-37	403	18
				Total	12,349-79	81,879	89

Each subdivision and whole survey field, especially in wet areas, is carefully bunded to differentiate it from its neighbours. The bunds, which may vary from a foot to two feet in breadth, are not generally cultivated except in Malabar and South Kanara, where coconut palms are grown on them. The more the fragmentation, the more wastage there is on bunds. Mr. Darling has summed up well the causes and evils of fragmentation and I cannot do better than quote from his book, *the Punjab Peasant*: "Small holdings are the result of large population and of laws of inheritance which prescribe that each son shall get an equal share of his father's land. That is bad enough, but what are we to say of a custom which requires that the few acres each son receives should be split up into as many fragments as there are different soils in the village, so that all may get an equal share of every kind of land—good, bad and indifferent? Yet this custom is well-nigh universal. . . . The more fertile the land the more it is split up, as fertility and population go together. Accordingly, the greater the population the greater the evil. . . . If things are better in Europe, it is because many countries have resolutely faced the problem and made it possible by law for the majority of a village or a commune to insist upon consolidation. But where this has not been done, the evil is still acute. In Eastern France, it has seriously affected the value of the land, and certain communes are literally dying. In one (Meaux), plots of less than a quarter of an acre form one-fifth of the whole cultivated area; in another (Chaigny), 5,447

acres are split up into 48,000 plots averaging one-tenth of an acre each; and in a third (Frepillon), the map of the village curiously resembles that of Bhoyapur in Chapter XIII. In parts of Italy and Spain, conditions are no better, and in Sardinia, they are as bad as anything to be found in the Punjab; properties of from half a row to four rows of vine trees are the rule, and in some parts of the island the boundary hedges of cactus take up nearly half the cultivable area. The problem, therefore, is not peculiar to the Punjab, and everywhere the consequences are the same. Land is wasted in innumerable boundaries, and labour and time in going from plot to plot: rotations cannot be varied, nor can valuable crops be properly supervised; scientific cattle breeding is impossible, disputes are frequent, and enterprise is paralyzed. In short, all the evils of small holdings are aggravated a hundred-fold, and agricultural progress is impossible. Worst of all, and this is the experience of both Germany and Italy, where fragmentation is bad, the money-lender is strong, for fragmentation means a dwarf domestic economy and a hand-to-mouth existence. . . . The smallness of the average holding and its almost incredible fragmentation together constitute one of the basic causes of debt."

Before discussing remedies in Part II of this report, I should like to make the position of the small holder, the tenant and the labourer, a little clearer. A small landholder, it is recognized, does not usually possess an economic holding. It is too small in the first

place and much too scattered in the second. But a large proportion of small holders, who cannot possibly make a living out of their holdings alone, take other pieces of land in the vicinity on lease and so become tenants as well. Indeed, these small holders turn out to be the best tenants. They have vested interests in the locality and the cattle and implements they possess as landholders are used for cultivating the lands taken on lease. Small holders and tenants and members of their families often hire themselves out to

others as farm labourers, when they have not enough work to do on their own fields. Fragmentation of holdings, therefore, is not such a great evil as it would be if the practices detailed above were not in vogue. Yet, none the less, fragmentation is one of the basic causes of debt, and consolidation is urgently needed.

26. *Cattle mortality.*—The following statement compares livestock and agricultural implements in 1930 with those in 1935.

STATEMENT No. 13.—Number of livestock and agricultural machinery and implements in the Province of Madras as ascertained by a census held in January 1935 (Preliminary figures) compared with the Census figures in 1930.

	Totals for the Province.	
	1935.	1930.
Oxen—		
Males—		
1 Breeding bulls, i.e., entire male over three years kept or used for breeding purposes.	198,025	85,283
2 Working bullocks, i.e., bullocks and uncastrated males over three years kept for work only	6,139,124	
3 Bulls and bullocks over three years not in use for breeding or work	636,475	
4 Young stock—		
(a) Under one year	959,777	
(b) One to three years of age	1,277,708	
Females—		
1 Breeding cows, i.e., cows over three years kept for breeding or milk production	4,247,015	
2 Cows over three years used for work	1,126,084	
3 Cows over three years not in use for work or breeding purposes	669,858	
4 Young stock—		
(a) Under one year	1,218,263	
(b) One to three years of age	1,312,233	
Total, oxen	17,684,562	16,447,360
Buffaloes—		
Males—		
1 Breeding bulls, i.e., entire males over three years kept or used for breeding purposes.	148,441	
2 Working bullocks, i.e., bullocks and uncastrated males over three years kept for work only	1,105,313	
3 Bulls and bullocks over three years not in use for breeding or work	136,035	
4 Young stock—		
(a) Under one year	495,045	
(b) One to three years of age	407,047	
Females—		
1 Breeding cows, i.e., cows over three years kept for breeding or milk production	2,389,154	
2 Cows over three years used for work	269,645	
3 Cows over three years not in use for work or breeding purposes	224,158	
4 Young stock—		
(a) Under one year	848,505	
(b) One to three years of age	775,493	
Total, buffaloes	6,798,836	5,998,414
Sheep	11,905,724	12,864,343
Goats	6,748,132	7,406,018
1 Horses	32,761	24,761
2 Mares	14,172	111,954
3 Young stock colts and fillies—		
(a) Under one year	3,415	3,044
(b) One to three years of age	2,218	
Mules	2,852	765
Donkeys	145,095	131,104
Camels	30	14
Ploughs—		
(i) Wooden	4,293,812	4,444,753
(ii) Iron	44,879	31,097
Carts	1,186,102	1,235,009
Sugarcane crushers—		
(i) Works by power	1,627	
(ii) Worked by bullocks	23,883	
Oil engines with pumps for irrigation purposes	3,821	
Electric pumps for tube wells	924	
Tractors	10,072	

B.P. Mis. No. 1345, dated 1st April 1935.

The number of total oxen and buffaloes has increased to some extent from 1930 to 1935. Breeding bulls have also increased. Sheep, goats and cows have decreased in numbers. Though wooden ploughs have grown fewer, the number of iron ploughs has shown

a gratifying increase. From this statement the following results have been arrived at:—

	1935.	1930
Number of cattle per 100 of population	52.4	53
Number of cattle per 100 acres of net sown area	72	65

While the number of cattle per 100 of population is on the decrease, the number per 100 acres of sown area is increasing. When a pair of buffaloes is reckoned to be needed for ploughing about five acres of land, the cattle in this Presidency can hardly be said to be in excess of requirements, even if they are efficient. But efficiency is not a noticeable characteristic of the cattle in this country. The small stunted animals seen roaming about the country-side in search of fodder are not only incapable of doing hard and sustained work, but are short-lived and fall an easy prey to disease. Indiscriminate breeding, insufficient food and lack of segregation are responsible for the poorness of the stock. "For anyone who has not lived in a primitive country, it is difficult to realize how much a peasant's life may depend upon his cattle. Without them his fields remain unploughed, store and bin stand empty, and food and drink lose half their savour; for in a vegetarian country what can be worse than to have neither milk, butter nor *ghi*?" Buffaloes and oxen are an indispensable part of the equipment of the cultivator. They are required not only for the plough, the cart and the water-lift, but also for the supplying of milk, butter, *ghi*, fuel and above all for the farmyard manure, which forms the bulk of that employed, especially for wet cultivation. There are signs that the

quality of cattle in this country is slowly deteriorating; but it is essential that such should improve. As the Royal Commission on Agriculture observe, "the process having gone so far, India having acquired so large a cattle population and the size of the animals in so many tracts having fallen so low, the task of reversing the process of deterioration and of improving the livestock of this country is now a gigantic one; but on improvement in its cattle depends to a degree that is little understood, the prosperity of its agriculture and the task must be faced."

A farmer must replace the cattle he loses. If he fails to do so, he has to sit at home and give up cultivation altogether. In 99 cases out of 100, a farmer has no money to replace the cattle he loses annually. He is compelled, therefore, to borrow at high rates of interest. The constantly recurring losses of cattle by drought, disease and destruction by wild animals is therefore an important cause of rural indebtedness.

Quite apart from the heavy mortality of cattle from natural causes, the death roll from contagious disease and by wild animals is very heavy indeed. It is gratifying, however, that deaths from contagious diseases are steadily decreasing, as will be seen from the following statement:—

STATEMENT No. 14.—Deaths of bovines from contagious diseases from 1929 to 1934.

Year.	Rinder-pest.	Anthrax.	Hæmorrhagic septicæmia.	Black-quarter.	Foot and mouth.	Other contagious diseases.	Total.
1929-30	106,046	8,329	7,516	6,755	5,354	24,523	158,523
1930-31	59,323	4,978	7,104	8,116	1,828	18,241	99,890
1931-32	28,412	4,734	6,145	5,358	1,753	10,232	56,634
1932-33	12,735	3,605	6,464	9,351	1,346	6,695	40,196
1933-34	5,209	3,612	7,536	7,550	1,590	6,277	31,774

Thus, according to the figures furnished by the Madras Civil Veterinary department, as many as 387,017 bovines died from contagious diseases between the years 1929-30 and 1933-34.

27. *Agricultural practices and the law of diminishing returns.*—Statements Nos. 7 and 8 show that the outturn per acre of the staple crop, paddy, is depressingly low in India, as compared with that in countries like Japan and Java. The same low outturn unfortunately applies to most of the other crops as well. While want of capital and the vagaries of nature account for much of this low outturn, gross slackness, conservatism in adhering to the old crude methods of cultivation and consequent lack of enterprise and initiative in attempting newer and more efficient methods of agriculture, must also be largely responsible for the comparatively meagre return from land.

Professor R. Mukerjee has summarized the crude methods adopted by the Indian farmer as follows: "Agriculture is carried on with the most primitive tools. The peasant maintains himself by crude and comparatively unprofitable agriculture at a low level of existence. He uses bad and infertile seeds and

works at great disadvantage owing to the inefficiency of his appliances. Darling observes: 'The plough that looks like a half-open penknife and just scratches the soil, the hand-sickle made more for a child than a man; the old-fashioned winnowing tray that woos the wind to sift the grain from the chaff; and the rude chopper with its waste folder, are undisplaced from their primitive but immemorial functions.' "The labourer to-day is a lazy, truculent worker, as compared with his forefathers. He insists on having his morning sleep, and seldom comes to the field before 8 a.m. He cries off work earlier than before and works with less vigour and more indifference. He needs to be stirred into greater activity. Most important of all, the small, medium and big landholders, whether absentee landlords or not, should take more personal interest in their properties, and either by working on the land themselves or by closer supervision and greater enterprise, must ensure the maximum return from them. The slackness of ryots and labourers in certain districts like Ganjam is notorious. An officer of the Agricultural department described the activities of a certain class of Ganjam agriculturist in this way: "The ryot ploughs twice,

broadcasts paddy seed, covers the seed by means of a plough and goes home to laze away his time, prays to God and gets into debt. In November, he goes with his sickle to his field to see what has happened in the meanwhile. If he finds a crop, he harvests it. If not, he probably offers up another prayer."

I have had many representations made to me that the soil in many places, especially in deltaic areas, is getting exhausted and that in consequence the yield per acre, already the lowest in the world, is still steadily declining. The careful investigations of settlement officers and others do not support this view. If at all the law of diminishing returns is coming into operation in this country, the change is so slight as to be almost imperceptible. The old crude system of agriculture is to be thanked for having secured "practically constant productivity on the whole and in the long run." Even assuming that diminishing returns have already supervened, particularly in thickly populated and long cultivated areas, the adoption of better and more scientific methods of cultivation ought effectively to arrest their course.

28. *The lack of subsidiary occupations.*—According to Dr. Slater, taking the land of South India all round, there is agricultural work for the cultivator only for five-twelfths of his possible working time. To be on the safe side, we may assume on an average that the agriculturist finds work to do on his land for about six months in the year, leaving his six months free to do what he likes. Mental and physical inertia, lack of ambition and pride of caste and position, have all contributed to the fact that the agriculturist wastes most of this spare time in doing practically nothing towards earning a subsidiary income. Cottage industries, which are not likely to be drowned by competition from the products of factories and organized industry, are not wanting. Spinning, weaving, carpentry, pottery, fruit-growing, poultry-keeping, rearing of sheep and goats, bee-keeping, sericulture, market gardening and all those skilled and delicate handicrafts from gold, silver, brass, bell-metal, iron and wood which have made India so justly famous for delicacy and taste, suggest themselves off-hand. But still the waste of labour continues. In Japan, though half the land is under rice, two million peasants (the number is steadily growing) earn a substantial subsidiary income by the rearing of the silk-worm. In Bengal and the Punjab, sericulture is a useful supplementary occupation. In the Punjab, many raise agricultural capital by silk-worm rearing and use the money in taking on lease a plot grown with melons; with the money left over they lease a mango orchard and follow this up with oranges and other fruit. They, therefore, show a spirit of enterprise and are not sunk in a stupor of hopelessness combined with gross laziness. As Mr. Yeatts in his census report observes of vernacular equivalents to means of livelihood, "nearly all contain a reference to sitting which clearly plays a large part in the daily life of these fortunate persons." It

is no exaggeration to say that caste prejudice and pride of position offer grave obstacles to the development of cottage industries in this Province. It is considered *infra dig.* for any one except a member of the potter caste to engage in pottery. None but members of carpenter family should make chairs and tables and agricultural implements; none but toddy-drawers should climb the coconut and palmyra. The members of the Nadar community in the Tinnevely district, who have been the official toddy-drawers, have recently struck work and declared that they are too superior to climb the palmyra and coconut palms. Members from other communities will not take up this work, as it is beneath their dignity to do so. So the toddy-drawing business is almost at a standstill in the Tinnevely district and men have actually to be imported from Malabar for this work.

29. *Taxation.*—From nearly all districts, individuals and often deputations have represented to me that much of the indebtedness of the agriculturist is due to the heavy incidence of the land revenue. This delicate and vexed question, therefore, cannot be shelved.

The people represent that—

(i) the principle of taking half the net profit as land revenue from big and small holders alike is unfair and has led in India to the highest land tax in the world.

(ii) payment in money is unfair and works a grave hardship in periods of depression, when the value of money is increased and the value of produce correspondingly diminished. It is argued that the present profits from agriculture are almost *nil* and that the land revenue and commuted money rents, taken by Government and zamindars respectively now represent far more than half the net profits from the land.

(iii) while land tax proper is no doubt not enhanced during the currency of the thirty-year settlements, there is no limit to the enhancement of water-rates and other miscellaneous items of land revenue during this period and such enhancements not only disorganize the whole economic machinery of rural economics, but drive the ryots affected into desperate straits.

The Government land revenue in a normal year does not generally exceed 25 per cent of the net profits. Commuted money rents in certain zamindaris however sometimes amount to as much as 50 per cent or more of the net profits of the tenants. The land tax on ryotwari land is therefore not a major cause of indebtedness in a normal year.

30. *General.*—I have attempted to analyse the general causes of indebtedness at some length. A clear knowledge of the causes of indebtedness is necessary before remedies can be suggested. These causes are so interwoven with each other that it is impossible to assess correctly the proportion of indebtedness due to each. Almost all of them have become aggravated by the great economic depression which swept over the world about five or six years ago.

I have given a few typical family budgets in Appendix IV*, taken from various reports, sent to me from officers of the Revenue department and the Settlement staff. Few agriculturists maintain accounts and so most of these budgets are based solely upon the statements of agriculturists. They may not therefore be quite reliable. Even allowing for under-statements and exaggeration, it will be seen how little is the income from agriculture, especially now in a time of depression. As many ryots are unable to make a living from the land alone, they are often obliged to borrow even for family expenses, unless they have some subsidiary occupation to augment their income from the land. The lives lived by the ordinary peasant are frugal and inexpensive generally, but the standard of living is undoubtedly gradually rising.

CHAPTER III.—THE ECONOMIC DEPRESSION.

31. *General.*—The periodic recurrence of trade cycles is well known; but the depression that took the whole world unawares about 1928 and still continues was one of the most severe that has ever been experienced. The causes which lead to such trade slumps are many and involved. Political factors have as much to do with them as economic forces. Currency problems are also inextricably involved. To analyse these intricate and interwoven causes will require a large volume. Such treatises are to be found in numbers, but it is not necessary to go over all this old ground, because we are here concerned not so much with the causes of the depression as with its effects. Our main task is to see how we can infuse vigour and hope into the Indian farmer and help him to tide over the very difficult times through which he is undoubtedly passing.

The direct result of an economic depression, given a fairly stable currency, is a marked fall in the value of all commodities and a pronounced rise in the value of money. A depression often suddenly comes like a thief in the dark, after a period of booming prices. The present depression, as is well known, has resulted in the downfall of many reputed banking and business concerns and hundreds of thousands of small traders and speculators have come to grief. The period of rising prices and trade optimism before the depression tempted people to speculate heavily in the hope of a continuation of such favourable prices; and, when the prices suddenly shot down, such speculators often crashed. Even individuals and companies, with keen business acumen and provided with all the latest knowledge of the trend of prices, markets, political events and so on, made mistakes in not foretelling the impending decline. How much more then was the farmer affected, with his poor business education, want of knowledge of world prices and the ignorance of the trend of market fluctuations. Before the onset of the depression, he found that the prices of his crops were excellent and continued to rise. So he speculated, often wildly, upon

land, borrowing at heavy rates to buy more land. Suddenly came the depression. He found to his bewilderment that his crops were fetching less and less in terms of money. His commitments to Government and others in terms of money became harder and harder to meet, as he was obliged to sell more and yet more of his crops to get the money required. The value of land declined steeply and there were no purchasers even at low current market prices. To add to his difficulties, cheap rice from foreign countries was flooding India and depressing the price of local rice still further. Is it any wonder then that the Indian agriculturist to-day is so heavily involved in debt; obliged to pay in money to Government, zamindars and others the same as he had to do before the depression and forced, in order to meet this demand in money, to dispose of about twice the amount of his crop as before; unable to dispose of his land at even half the price it easily fetched in predepression days; unable, with credit shortened, to borrow enough even for current family and cultivation expenses; compelled, therefore, to part with much of his hoard of jewels and ornaments in order to get ready money; and, hence, left more at the mercy of unscrupulous money-lenders and middlemen than before.

The rupee is linked to the pound sterling. That is to say the currency of a country like India, which depends mainly upon agriculture for its welfare, is linked with the currency of a country like England, which depends for its prosperity, not upon its agriculture, but mainly upon its banking and trade. The pound sterling, gold standard or no gold standard, is about the most stable currency in the world to-day. One has only to see the way, in which the *franc*, the *mark* and other continental currencies are fluctuating to realize the essential soundness and stability of the pound. No doubt, India has benefited enormously by having the rupee linked to such a sound currency unit; her borrowing power is high, and she finds it all the easier to meet her commitments to the mother country. But the great difference between the value of money and the value of commodities, especially of food and commercial crops, has undoubtedly been a hardship on the Indian agriculturist. Some countries have solved the problem by a judicious inflation of currency, so that the great gap caused by the depression between the value of money and of commodities has been bridged to some extent. Sir George Schuster has, however, laid down that the problem of currency is outside the scope of remedial measures that Local Governments may contemplate in consultation with the Central Government for the amelioration of the conditions of the agriculturists. The Indian agriculturist, at present, is mainly concerned with the production of food crops like rice and wheat, in which we must not forget to include dry food crops like ragi, cholam, and cumbu. The main argument in the past for allowing rice to come into this country from

* Not printed.

abroad, unchecked by effective protective tariffs, is that India does not produce enough food crops to feed her own people and must therefore import the deficit. I am led to wonder whether it has ever struck anyone, that one of the chief reasons why outturns in India are so low, is because the demand is limited and prices are unstable. What can be the use of urging the ryot to adopt improved methods of cultivation in order to increase his output, if at the same time the inevitable argument is thrown at him that he must have imported rice as well? How is it possible for the output to be increased, and where is this increased output to find a market, when rice is allowed to come into this country to depress prices? The recent levy of a small import duty on broken rice will undoubtedly afford much relief; but it may not be high enough or comprehensive enough, I submit, to prevent paddy, whole rice and even broken rice from being imported in sufficient quantity to depress local prices seriously. Many of the other countries have effectively barricaded themselves against the import of food crops. We need an effective tariff barrier against the import of rice and paddy, like that which France imposed in 1934 as follows:—

Goods of Indian origin.	General rate of import duty—Francs per 100 kilogramms.	
	Former.	Now.
	Rice—	
In the straw	4.20	16.80
Broken rice	8.40	30.00
Whole rice, flour and grits ..	34.40	137.80

It is only by properly checking foreign imports of paddy and wheat and such like products that a real stimulus will be given to Indian agriculture in the matter of increased outturns. What is going to happen to the vast new wet area that the Cauvery-Mettur Project is going to open up? Where is the paddy that will be grown thereon to go to, and what will be its price? The whole or even a major portion of this new wet area can never grow sugarcane. The water-rate for this *duffasal* crop for one thing is likely to be a heavy burden, and sugarcane cultivation is too expensive for the average small farmer. Any deficit in food for India in rice can always be made up by the consumption

of grains grown on dry lands. The great influx in the last two years of rice from Burma and abroad has had much to do with the steady decline in the areas cropped under cholam, ragi and cumbu as seen from statement No. 6. The poorer classes of ryots and labourers, who once mainly ate the healthy cholam, ragi and cumbu, have now to a noticeable extent gone over to the cheap broken rice from abroad, which is not only throwing dry lands out of cultivation but is less nutritious and certainly wanting in *vitamin* content. I am convinced that the main reason why India fails to produce enough food crop for her own consumption is because prices of food crops are not only constantly fluctuating, but are also on an average not high enough to stimulate her to more labour and greater enterprise. The instability of prices of food crops in India can be effectively remedied, and prices can be sufficiently raised, by imposing proper tariff barriers against foreign imports. The rapidly growing Indian population can easily absorb the increased output that can be achieved thereby. There can be little hope of success in adopting a policy of putting the cart before the horse. If a proper market at attractive prices is first assured then increased production will inevitably follow, and the Indian farmer will respond with enthusiasm to agricultural education. But no amount of propaganda to adopt advanced scientific methods of cultivation will, I think, be of use if the farmer rightly feels that he cannot get stable and attractive prices for his crops. The *free-trader* economist, no doubt, has sound reasons for permitting the natural forces of supply, demand and private competition to adjust themselves; but I submit that his theories may not be so convincing when he attempts to apply them to food crops grown in a country predominantly agricultural, where almost the whole of the supply is absorbed by demand from within the country itself.

32. *Imports and exports.*—India in the past exported much paddy and rice to other countries. Now her exports have dwindled and her imports increased. The following statement exhibits the imports and exports of paddy and rice in the last five years:—

STATEMENT No. 15.—Import and export of paddy and rice—in tons—Sea-borne trade.

	1929-30.				1930-31.				1931-32.			
	Imports.		Exports.		Imports.		Exports.		Imports.		Exports.	
	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.
Bengal	5,636	725	2,208,229	27,612	7,445	1,571	2,253,784	25,445	17,931	9,042		
Bombay	204	..	120,040	6	86	..	118,886	51	44	..	..	..
Madras	88	..	16,303	6	2,384	1	13,897	5	590	..	..	..
Andhra	5,184	710	93,852	4,265	3,965	1,560	101,711	4,368	17,301	9,042	..	..
Sind .. .. .	..	..	42,862	..	2	..	43,638	..	..	..	..	..
Bihar and Orissa .. .. .	..	..	92	..	..	..	250	..	..	..	..	..
Burma	69	15	2,024,990	23,335	1,008	10	1,975,393	21,021	6	..	..	..
	1931-32—cont.				1932-33.				1933-34.			
	Exports.		Imports.		Exports.		Imports.		Exports.		Imports.	
	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.
Bengal	2,301,415	70,291	35,510	11	1,828,196	58,844	84,024	4,381	1,732,539	11,384	..	..
Bombay	123,185	14	16	..	120,795	2,161	731	..	107,657	3	..	..
Madras	13,342	2	..	..	11,309	2	5,536	..	12,674	6	..	..
Andhra	61,175	2,365	35,418	10	64,894	2,028	77,665	4,381	78,262	1,082	..	..
Sind	37,843	..	..	..	23,339	..	2	..	17,560	..	..	..
Bihar and Orissa	50	..	..	..	..	..	..	..	..	..	..	..
Burma	2,065,816	67,920	19	1	1,802,389	54,653	40	..	1,516,396	10,233	..	..

(Extract from the Annual Statement of the Sea-borne trade of British India with the British Empire and foreign countries for the year ending 31st March 1934.)

33. Price of staple food crops.—I append prices of paddy, cholam, ragi and cumbu in the last ten years:—

STATEMENT No. 16 (a).—Statement showing the harvest price per imperial maund of 82-2/7 lb. on the average of the price prevailing in two or three of the principal markets in each district from 1924-25 to 1933-34.

District.	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.	1930-31.	1931-32.	1932-33.	1933-34.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
RICE.										
	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.
Ganjam	7 0	6 11	6 8	6 1	5 14	5 14	5 4	4 5	3 10	3 1
Vizagapatam	6 11	6 11	6 13	6 11	6 6	6 12	4 13	4 12	4 8	3 3
East Godavari	5 13	6 5	7 0	7 0	6 5	6 1	4 1	3 11	2 14	2 6
West Godavari	7 0	6 5	6 14	6 12	6 4	5 14	3 11	3 14	3 2	2 3
Kistna	7 6	6 5	7 8	6 13	6 1	5 10	4 3	4 4	3 11	2 10
Guntur	6 11	6 11	7 2	6 13	5 14	5 12	3 13	3 8	3 5	2 7
Kurnool	7 11	7 2	7 6	7 3	6 15	6 9	5 8	4 9	4 6	3 12
Bellary	8 0	7 5	8 0	7 13	7 2	7 1	5 5	4 9	4 6	3 15
Anantapur	7 13	6 11	7 6	7 3	6 15	6 8	4 14	4 5	3 14	3 0
Cuddapah	10 0	8 5	7 13	8 5	7 7	6 15	5 10	4 8	4 11	3 12
Nellore	6 11	6 11	7 0	7 4	7 3	6 7	3 3	3 11	4 0	3 4
Chingleput	7 13	6 3	7 5	8 0	5 15	5 7	3 12	3 9	3 5	3 3
South Arcot	7 11	6 8	7 11	8 3	7 6	6 6	4 8	4 1	2 14	3 2
Chittoor	7 0	6 8	7 2	7 7	6 14	6 6	4 6	3 12	3 14	3 3
North Arcot	8 5	7 3	7 6	7 10	7 3	5 11	3 9	3 2	3 6	3 1
Salem	8 5	8 5	8 5	8 8	8 12	7 0	5 4	4 11	5 14	3 4
Coimbatore	3 0	7 11	8 0	8 1	7 9	7 3	5 6	4 5	4 2	3 14
Trichinopoly	9 3	8 3	8 3	8 1	8 4	6 15	5 12	4 3	3 13	3 1
Tanjore	8 14	7 11	7 0	8 3	7 11	6 13	5 14	4 5	3 10	3 1
Madura	8 3	7 3	7 5	7 3	6 11	5 10	4 7	4 4	3 8	3 3
Ramnad	9 13	8 0	8 0	7 3	6 12	6 2	4 6	3 15	3 3	2 14
Tinnevely	7 3	7 5	7 2	7 5	6 7	5 1	4 15	3 14	3 8	3 4
Malabar	7 11	7 2	7 0	7 0	6 12	6 0	5 0	4 0	3 10	2 15
South Kanara	7 0	7 5	6 11	6 4	5 15	5 8	5 6	3 14	3 10	3 7
The Nilgiris	9 2	8 14	8 0	7 14	7 11	7 5	5 9	4 10	4 6	

STATEMENT No. 16 (b).—Statement showing the harvest price per imperial maund of 82-2/7 lb. on the average of the price prevailing in two or three of the principal markets in each district from 1924-25 to 1933-34.

District.	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.	1930-31.	1931-32.	1932-33.	1933-34.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
CHOLAM.										
	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.
Ganjam										
Vizagapatam										
East Godavari	4 0	4 5	4 3	3 3	3 11	4 1	2 14	2 14	2 6	1 7
West Godavari	4 13	4 11	5 3	4 13	4 5	3 12	2 4	2 14	3 2	1 12
Kistna	5 0	4 8	5 0	5 1	4 7	3 9	2 13	3 6	2 14	2 1
Guntur	4 10	4 2	4 6	4 13	4 3	3 15	3 1	2 11	2 11	1 14
Kurnool	4 5	3 3	3 11	4 3	3 9	3 4	2 2	2 0	2 5	1 15
Bellary	4 13	4 2	4 8	4 8	3 12	3 12	2 1	2 2	2 0	2 1
Anantapur	5 5	3 13	4 0	4 8	4 0	3 10	2 6	2 3	1 14	2 1
Cuddapah	4 14	3 6	4 0	4 13	4 3	3 5	2 0	2 6	2 3	2 0
Nellore	4 8	4 5	4 10	4 7	3 6	3 2	2 5	2 6	2 0	1 15
Chingleput										
South Arcot										
Chittoor										
North Arcot										
Salem	5 2	4 14	5 2	4 9	4 6	3 9	2 13	2 6	2 8	2 10
Coimbatore	6 5	5 13	5 5	5 0	5 2	5 4	3 14	2 3	2 3	2 0
Trichinopoly	5 5	4 14	5 2	4 11	4 6	3 14	2 7	2 7	2 2	1 10
Tanjore										
Madura	5 13	5 2	5 2	4 9	4 12	4 1	2 15	2 9	2 5	2 0
Ramnad	4 6	4 8	4 8	3 9	4 3	3 3	2 10	2 8	2 2	1 15
Tinnevely	4 8	4 11	4 3	4 6	3 15	2 14	2 8	2 3	2 0	1 3
Malabar										
South Kanara										
The Nilgiris										

STATEMENT No. 16 (c).—Statement showing the harvest price per imperial maund of 82½ lb. on the average of the price prevailing in two or three of the principal markets in each district from 1924-25 to 1933-34.

District.	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.	1930-31.	1931-32.	1932-33.	1933-34.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
RAGI.										
	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.
Ganjam	3 0	3 3	3 14	3 14	3 2	2 9	2 3	1 14	1 10	1 11
Vizagapatam	3 5	3 3	4 0	3 13	3 5	2 15	2 10	2 3	1 14	1 3
East Godavari	3 14	3 6	3 11	4 1	3 5	3 6	2 7	2 2	2 2	1 3
West Godavari	4 0	3 8	4 0	4 0	3 12	3 5	2 9	2 2	2 2	1 12
Kistna	4 0	3 10	4 0	3 13	3 5	3 4	2 3	2 2	2 2	1 5
Guntur										
Kurnool										
Bellary										
Anantapur	4 6	3 11	3 5	3 14	3 11	3 10	2 1	2 1	2 2	1 9
Cuddapah	4 6	3 10	4 11	4 5	3 11	3 1	1 14	2 1	2 3	1 13
Nellore	4 5	3 11	4 3	4 0	3 4	2 12	2 3	2 3	2 2	1 11
Chingleput	4 14	4 0	5 0	4 10	4 11	4 5	3 3	2 3	2 13	2 10
South Arcot	5 5	4 11	4 14	4 11	3 8	4 0	2 15	2 8	2 0	2 4
Chittoor	4 5	3 11	3 8	3 15	4 5	4 1	2 2	1 15	2 3	1 3
North Arcot	5 6	4 11	4 13	4 12	4 11	3 10	2 11	2 4	2 3	2 6
Salem	4 14	4 6	4 6	4 6	4 5	3 13	2 4	2 7	2 3	1 14
Coimbatore	5 10	5 6	5 5	4 13	4 13	4 8	3 11	2 9	2 10	2 5
Trichinopoly	5 6	5 2	5 0	5 2	5 0	4 15	2 13	2 3	2 3	1 12
Tanjore	6 5	5 3	4 14	4 2	5 4	4 0	2 9	2 3	2 2	1 13
Madura	5 3	4 11	4 13	4 12	4 15	3 15	3 0	2 6	2 0	1 12
Ramnad	4 14	4 11	4 2	4 13	3 11	3 10	2 18	2 5	2 3	1 14
Tinnevely	4 5	4 0	4 6	4 0	3 13	3 2	2 3	2 4	2 2	1 10
Malabar										
South Kanara										
The Nilgiris	6 5	6 0	5 10	5 11	5 13	5 2	3 12	2 14		

STATEMENT No. 16 (d) — Statement showing the harvest price per imperial maund of 82½ lb. on the average of the price prevailing in two or three of the principal markets in each district from 1924-25 to 1933-34.

District:	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.	1930-31.	1931-32.	1932-33.	1933-34.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.	RS. A.
CUMBU.										
Ganjam	3 14	3 11	4 5	3 13	3 7	3 3	3 0	2 5	1 13	1 10
Vizagapatam .. .. .	..	..	..	..	..	..	..	..	..	..
East Godavari .. .. .	..	..	..	..	..	..	..	..	..	..
West Godavari .. .. .	..	..	..	..	..	..	..	..	..	..
Kistna .. .. .	..	..	..	..	..	..	..	..	..	..
Kuntur	4 8	4 8	4 11	5 0	4 12	4 5	3 7	2 13	3 3	2 13
Kurnool	4 11	4 8	4 13	5 0	4 13	4 10	3 8	2 13	2 14	2 11
Bellary .. .. .	..	..	..	..	..	..	..	..	..	..
Anantapur	4 11	3 11	3 13	4 3	3 11	3 15	2 5	1 14	2 5	1 14
Cuddapah	4 2	4 0	3 5	4 4	4 2	4 8	2 4	1 12	2 3	2 2
Nellore	4 5	4 3	5 0	5 5	4 5	3 13	2 13	2 11	2 10	2 5
Chingleput .. .. .	..	..	..	..	..	..	..	..	..	..
South Arcot	5 10	5 2	2 5	4 15	4 12	4 4	3 7	2 12	2 8	2 7
Chittoor	4 2	3 11	3 11	4 7	4 12	3 8	2 4	1 14	2 10	2 1
North Arcot	5 2	4 11	4 14	4 3	4 4	4 2	2 14	2 8	2 3	2 4
Salem	5 5	4 13	4 8	4 4	4 12	5 2	3 4	2 0	2 2	2 4
Coimbatore	5 5	4 14	5 0	4 14	5 5	4 12	3 13	2 9	2 14	2 10
Trichinopoly	5 5	5 0	5 5	5 5	5 5	4 14	3 9	2 1	2 8	2 9
Tanjore .. .. .	..	..	..	..	..	..	..	..	..	..
Madura	5 10	5 2	5 11	5 15	5 8	5 0	3 14	3 0	2 14	2 3
Bamnad	5 10	5 3	5 10	5 2	4 14	3 4	3 9	3 0	2 11	2 9
Tinnevely	5 2	5 2	5 13	5 8	5 2	3 13	2 10	3 3	2 11	2 8
Malabar .. .. .	..	..	..	..	..	..	..	..	..	..
South Kanara .. .. .	..	..	..	..	..	..	..	..	..	..
The Nilgiris .. .. .	..	..	..	..	..	..	..	..	..	..

The great fall in prices of staple food crops is evident from these statements. The fall is equally, if not more, marked in the case of most of the commercial crops. Even as early as 1931, the Census Superintendent found the agricultural situation extremely gloomy. He appends the following statement in support of his conclusions.

Price of staple food grains.

(In terms of imperial scores of 80 tolas per rupee.)

(Fasil) year.	Rice.	Ragi.	Cholam.	Cumbu.
1921-22	5.4	8.8	8.2	8.2
1922-23	5.7	9.7	9.6	8.9
1923-24	5.8	9.9	9.1	8.7
1924-25	5.1	9.0	8.5	8.4
1925-26	5.5	9.9	9.5	9.1
1926-27	5.4	9.4	9.1	8.5
1927-28	5.5	9.3	8.8	8.5
1928-29	6.2	10.5	10.1	10.1
1929-30	6.5	11.9	11.4	10.7
1930-31	8.4	10.0	15.6	13.8
Average for the decade	6.0	10.4	10.0	9.5

The Census Superintendent then states as follows:—

“The price of ragi for example was at the end practically half what it was at the opening of the decade. Rice had fallen by a half. The decade from a cultivation sense closed gloomily in that the price of the industrial crops, which have become so popular and from which many ryots look to pay the land assessment, had fallen enormously and that frequently owing to the stagnation of trade, particularly in groundnut, no sale was possible even at low prices. The grower of food crops was in a better position, because these can always be sold in a country which does not produce enough to feed itself but the returns were disappointing. The labouring classes came off best, for the price of the articles which formed the bulk of their daily food had fallen enormously, more than any diminution in wages. A growing difficulty in securing employment marked however the influence of the slump upon them.”

The following remarks are extracted from the Season and Crop Report of the Madras Presidency for 1933-34:—

“The population dependent on agriculture had as a whole increased its standards of living during the years of affluence and is now

suffering the reaction brought about by the low prices of agricultural produce. The classes who have invested money in lands, as distinguished from the cultivating ryots and labourers are the worst sufferers. Frequently they are now overburdened with debts incurred for both agricultural improvements and personal extravagances. These men are largely absentee landlords and now experience difficulty in securing suitable tenants for their lands at rents which they have hitherto considered fair. Their investments have in fact shared a fate similar to investments in general as a result of the world economic depression. The tenant farmer is somewhat better off; but he has had to labour under the severe handicaps of low prices.

The supply of food grains and fodder has been sufficient but the economic condition of the cultivating ryot cannot be said to have been satisfactory in this respect. His principal difficulty has been to find ready money in his village. The lands of many ryots are mortgaged; but the high price of gold has assisted them to some extent in discharging their obligations. There has been no advance in the cost of production. Agricultural labourers are largely paid in kind and have been comparatively little affected by the general economic depression.

The position of the labourer paid in cash has improved appreciably. He has generally earned practically the same money as before but has had to spend less on the necessaries of life as prices generally have fallen.”

A Tahsildar of South Kanara whose report will be found in Appendix II* has represented his views on the depression as follows:—

“The general indebtedness of the ryots in the village is growing heavier year by year. The prime cause is the general economic depression, especially, the fall in the price of rice and coconuts in the district. When rice was selling at Rs. 10 per *mura*, coconuts at Rs. 8 per 100 and areca at Rs. 10 per 1,000, people had cash in their hands. Now rice sells at Rs. 3 per *mura*, coconuts at Rs. 3

* Not printed.

per 100, and area at Rs. 5 per 1,000. A ryot who had to pay an assessment of Rs. 50 annually had to sell only 15 *muras* during the above year, but now he has to sell 17 *muras* for paying the same amount. The difference in the number of *muras* to be sold is striking and the ryot has barely anything for his own consumption." This statement of the bare facts as found in South Kanara, applies equally to all the other districts.

It is only in the last few months that the prices are at last showing an upward trend. It still remains to be seen whether the change is temporary or the definite beginning of the end of the depression. In either case, it will take many years for the agriculturist to recover from the devastating effects of such a serious and prolonged slump. Professor George O'Brien in his book entitled *Agricultural Economics* gives an excellent survey of the effects of depression on the farmer in general. His remarks apply with even greater force to the Indian agriculturist:—

"It may not unnaturally be asked why so much emphasis has been laid on the effect of a fall of prices on the farmer and so little on the effects of a rise. Do not his differential gains in the rise compensate him for his differential losses in the fall? It is true that the effects of the slump are rendered less onerous by the preceding boom than they would be if no boom had occurred, indeed, the savings put aside during the good years may stave off actual bankruptcy during the bad. But apart from this, the two movements do little in the way of mutual compensation. For one thing, the turn in the tide of prices probably overtakes the farmer unawares. Farmers live remote from markets and market news, and are not so sensitive to changes in market conditions as producers in other industries. Intoxicated by the optimism of good prices they are tempted to go on increasing their output even after the peak in the movement has been reached, trusting that any set back which they observe is but a temporary hesitation pending a further rise. Their losses in the fall are thus intensified, and probably, more than the extra profits made in the rise are absorbed in keeping them out of bankruptcy. Moreover, adjustments are made more rapidly in periods of expansion than of contraction. Many more or less permanent charges may have been incurred under the exhilaration of high prices which afterwards grow heavier owing to the combined effect of lower profits and the appreciation in the value of the currency unit in which the charges have to be paid. Especially distressing is the lot of those who have borrowed

money in order to purchase land during the period of high prices. Among such farmers bankruptcies and forced sales become the order of the day. Finally, the psychological effects of the slump are serious, and far from transitory. Falling prices undermine confidence. In the absence of confidence farming deteriorates, and the farmer is slow to recognize signs of improvement when prices once more show an upward tendency. The cumulative effect of all these factors tends to prolong the harmful consequences of a depression long after the causes which brought it about have ceased to operate. . . It is impossible to doubt that the net effect of the cycle is a loss to the agricultural industry. . . Every student of agricultural economics is agreed that the gains derived during the boom do not in fact compensate for the losses suffered during the slump, and the farmer has therefore a more pressing and urgent need for some policy of price stabilization than any other member of the society. 'The agriculturist,' states the final report of the World Economic Conference, 'should find his just remuneration, not through speculation, but in the regularity of prices enabling him to reckon on a legitimate return equivalent to that accorded to other producers.' Unfortunately, the formulation and execution of such a policy is outside the power of the farming classes even if they were fully organized for joint action. In this matter their fortune lies in the power of the bankers and statesmen who control the purchasing power of money."

34. *Some statistics from the Registration department.*—I requested the Inspector-General of Registration to furnish me with some figures for the whole Presidency. He found it impossible without additional staff to collect, tabulate and consolidate the particulars I required from the millions of documents and entries in registers in all the Sub-Registrars' offices. He very kindly agreed, however, to furnish me with the information I required for two typical villages in each of the districts in this Presidency, except Malabar and South Kanara. Of course, the registration district of Madras was also to be excluded. Statements 17-a to 17-d are those sent by the Inspector-General of Registration at my request and they furnish useful information of the trend of events from 1930 to 1934 so far as the agriculturist is concerned. I suggest that such tabular statements for the whole Presidency should be prepared and published once in five years so that the condition of the agriculturist may be watched in future.

35. *Extent of sales and mortgages—*

STATEMENT 17 (a).—Statement showing the extent of lands in acres sold and mortgaged in the Presidency of Madras taking two typical villages for each district excepting the districts of North and South Malabar and South Kanara during the years 1930 to 1934.

Years.	Total changed hands.			Net sold by agriculturists to non-agriculturists.			Net area sold.			Net mortgaged by agriculturists to non-agriculturists.		
	Dry and garden.	Wet.	Total.	Dry and garden.	Wet.	Total.	Civil courts.	By private sales.	Total.	Dry and garden.	Wet.	Total.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
1930	3,806	1,229	5,125	505	267	772	181	4,944	5,125	2,652	691	3,343
1931	3,858	1,682	5,540	1,033	335	1,368	203	5,337	5,540	1,600	844	2,444
1932	3,681	2,098	5,729	512	405	917	354	5,378	5,782	1,762	843	2,605
1933	4,934	1,735	6,669	1,049	357	1,406	489	6,179	6,668	1,639	914	2,553
1934	4,095	1,899	5,994	748	333	1,081	496	5,497	5,992	1,501	796	2,297
								+ 2	+ 2			

5344

The definition of the word *agriculturist* proved rather a stumbling block in preparing these figures. So far as this statement is concerned, I believe that all those, who noted their occupation as *agriculture* or *cultivation*, were termed *agriculturists*; and non-agriculturists were those who gave other occupations as their means of livelihood. There being no distinct division between cultivating and non-cultivating classes, it was impossible to separate them. So among agriculturists in this statement, we shall find both owner cultivators and absentee landlords like agriculturist money-lenders. Among non-agriculturists also will probably be found absentees landlords, whose main support is income from some source other than land, Government servants, lawyers, professional money-lenders, traders, merchants and so on. There has been a steady increase from 1930 to 1933 in the total area that has changed hands. The area sold to non-agriculturists has fluctuated a bit, but has definitely risen between 1930 and 1934. Sales through civil courts, though increasing, form much less than 10 per cent of the total sales. The area mortgaged by agriculturists to non-agriculturists however has dropped steadily from 1930 to 1934, which clearly indicates a steady decline in fresh borrowings and a shortening of credit. The Government have asked me, in question No. 6 of my terms of reference, to what extent property has been mortgaged by agriculturists as security for debts. I am not able to furnish the extent; but the value of mortgages in the last ten years is given in statement No. 19. I have also been asked how much land has changed hands in the last four years and how much thereof

has gone to the non-cultivating classes. I have already indicated the difficulty of differentiating between cultivating and non-cultivating classes in the Presidency. We may assume that no non-agriculturist cultivates his land and many agriculturists also are non-cultivators. This is particularly so for big agriculturist landholders, especially the money-lenders among them, all of whom probably come under the rather vague term *agriculturist*. There are 21,631 ryotwari villages in the twenty-five districts of the Presidency. The average number of ryotwari villages per district may be taken to be 865. The total acreage that changed hands in the four years from 1931 to 1934 according to statement No. 17-a is 23,932 acres. This figure is for two villages for each of the districts except Malabar and South Kanara. So the total ryotwari area, that has changed hands from 1931 to 1934 for the Presidency, except Malabar and South Kanara, may roughly be calculated as $\frac{23,932 \times 865}{2}$ or 10,351,000 acres. Of the area of 23,932 acres, which changed hands from 1931 to 1934 according to the previous statement, 4,772 acres or about 20 per cent went to non-agriculturists. So, from 1931 to 1934, the area of ryotwari land which went to non-agriculturists, excepting that in Malabar and South Kanara, is 2,070,000 acres. Of the 10,362,000 acres of ryotwari land which changed hands during these years, I should say a very large proportion went to big absentee landlords particularly agriculturist money-lenders. This shows that many small and medium landholders were and are being rendered landless and destitute because of foreclosure on their debts.

36. Rates of interest on mortgages and bonds—

STATEMENT No. 17 (b).—Statement showing mortgages without possession and bonds registered in 1930—1934 classified according to rates of interest charged in the Madras Presidency, taking two typical villages for each district.

Serial number.	Years.	0 per cent and less.					Above 0 and not more than 9 per cent.					Above 9 and not more than 12 per cent.										
		Number in which the amount of loan is.					Number in which the amount of loan is.					Number in which the amount of loan is.										
		Rs. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.	Rs. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.	Rs. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)
STATEMENT II—MORTGAGES WITHOUT POSSESSION.																						
1	1930	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
2	1931	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
3	1932	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
4	1933	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
5	1934	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
1	1930	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
2	1931	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
3	1932	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
4	1933	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
5	1934	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..

Serial number.	Years.	Above 12 and not more than 24 per cent.					Above 24 per cent.					Other cases where interest is payable in grain or not as certain a'le.										
		Number in which the amount of loan is.					Number in which the amount of loan is.					Number in which the amount of loan is.										
		Rs. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.	Rs. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.	Rs. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.
(24)	(25)	(26)	(27)	(28)	(29)	(30)	(31)	(32)	(33)	(34)	(35)	(36)	(37)	(38)	(39)	(40)	(41)	(42)	(43)	(44)		
STATEMENT III—BONDS.																						
1	1930	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
2	1931	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
3	1932	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
4	1933	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
5	1934	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..

Serial number.	Years.	Above 12 and not more than 24 per cent.					Above 24 per cent.					Other cases where interest is payable in grain or not as certain a'le.										
		Number in which the amount of loan is.					Number in which the amount of loan is.					Number in which the amount of loan is.										
		Rs. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.	Rs. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.	Rs. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.
(24)	(25)	(26)	(27)	(28)	(29)	(30)	(31)	(32)	(33)	(34)	(35)	(36)	(37)	(38)	(39)	(40)	(41)	(42)	(43)	(44)		
STATEMENT II—MORTGAGES WITHOUT POSSESSION.																						
1	1930	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
2	1931	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
3	1932	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
4	1933	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
5	1934	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..

Serial number.	Years.	Above 12 and not more than 24 per cent.					Above 24 per cent.					Other cases where interest is payable in grain or not as certain a'le.										
		Number in which the amount of loan is.					Number in which the amount of loan is.					Number in which the amount of loan is.										
		Rs. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.	Rs. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.	Rs. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.
(24)	(25)	(26)	(27)	(28)	(29)	(30)	(31)	(32)	(33)	(34)	(35)	(36)	(37)	(38)	(39)	(40)	(41)	(42)	(43)	(44)		
STATEMENT III—BONDS—cont.																						
1	1930	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
2	1931	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
3	1932	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
4	1933	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
5	1934	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..

As regards mortgages without possession, the most common rates of interest range from 9 to 12 per cent. There are some transactions, where interest between 6 and 9 per cent is charged and also some where the interest is between 12 and 18 per cent. Cases, where interest below 6 per cent and above 24 per cent are charged, are rare. The figures relating to bonds are not many. It is necessary to remember that these are the recorded amounts of

ordinary interest. The much heavier penal rates generally are enforced, as borrowers seldom repay within the period stipulated. The common practice of deducting at the outset a sum for interest and only paying the balance to the borrower must not be lost sight of.

37. Purposes of borrowing—

STATEMENT No. 17 (c).—Statement showing the different purposes for which lands were sold, mortgaged without possession, mortgaged with possession and loans were obtained on bonds during 1930-1934 in the Madras Presidency taking two typical villages for each district excepting the districts of North and South Malabar and South Kanara.

Year.	Sold or borrowed for															
	Agricultural purposes.				Trade purposes.				Payment of kist.				Marriage expenses.			
	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.	Sales.	Mortgages without possession.	Mortgages with possession.	Mortgages Bonds.
(1)	2 (a)	2 (b)	2 (c)	2 (d)	3 (a)	3 (b)	3 (c)	3 (d)	4 (a)	4 (b)	4 (c)	4 (d)	5 (a)	5 (b)	5 (c)	5 (d)
1930	72,705	49,614	15,491	1,470	21,418	27,268	6,584	13,000	5,424	2,526	50	80	24,748	23,154	9,888	
1931	22,741	28,615	1,971	520	5,314	24,873	1,219	40,090	1,380	1,527	50	..	10,109	12,595	4,375	964
1932	43,941	43,538	3,143	150	16,046	15,068	1,514	22,216	5,091	934	180	..	11,966	26,936	5,902	150
1933	46,290	25,188	2,776	1,100	17,662	8,548	2,008	16,675	8,803	2,407	542	100	11,940	16,892	8,400	200
1934	33,218	23,956	13,498	..	11,478	11,965	1,441	14,523	3,539	475	500	..	22,805	23,532	4,085	50

Year.	Sold or borrowed for—cont.															
	Discharging old debts.				Other purposes.				Purposes not as certainable.				Total amount.			
	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.
6 (a)	6 (b)	6 (c)	6 (d)	7 (a)	7 (b)	7 (c)	7 (d)	8 (a)	8 (b)	8 (c)	8 (d)	9 (a)	9 (b)	9 (c)	9 (d)	
1930	1,087,458	639,177	177,807	8,441	138,475	69,530	18,697	79,403	235,274	74,437	16,502	29,230	1,565,487	885,706	239,669	181,624
1931	1,384,426	764,641	115,914	5,140	70,306	36,420	11,440	37,732	209,252	70,728	9,156	775	1,703,528	899,399	144,125	85,221
1932	1,529,892	468,417	154,314	147,234	92,063	56,201	15,112	25,565	195,002	60,498	138,752	3,280	1,894,101	666,592	318,917	198,595
1933	1,354,389	500,601	133,273	6,965	61,546	92,076	16,753	23,305	194,726	59,661	10,740	7,765	1,695,356	695,373	174,492	36,610
1934	115,235	488,309	150,070	3,281	72,816	52,411	8,373	14,315	179,168	47,374	5,609	2,500	1,477,370	643,022	188,576	84,674

NOTE.—The figures in this statement represent the number of cases.

Lands have been sold or mortgaged mainly to discharge old debts. This shows that loans are seldom discharged but are generally renewed. *Agricultural purposes* and *marriage expenses* are responsible for a fair proportion

of sales and mortgages. *Purposes not ascertainable* and *other purposes* account for a good proportion of sales and mortgages. Sales and mortgages for *payment of kist* are trivial.

38. *Periods of mortgage and bonds—*

STATEMENT No. 17 (d).—Statement showing mortgages without possession, mortgages with possession and bonds registered in 1930-1934 classified according to periods of loan in the Madras Presidency taking two typical villages for each district excepting North and South Malabar and South Kanara.

Year.	One year and less—Number in which the amount of loan is						Above one year but not more than three years—Number in which the amount of loan is							
	Rs. 25 and less.	Between Rs. 26 and Rs. 100.	Between Rs. 101 and Rs. 500.	Between Rs. 501 and Rs. 1,000.	Above Rs. 1,000.	Total number of transactions.	Total amount.	Rs. 25 and less.	Between Rs. 26 and Rs. 100.	Between Rs. 101 and Rs. 500.	Between Rs. 501 and Rs. 1,000.	Above Rs. 1,000.	Total number of transactions.	Total amount.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)

STATEMENT VIII.—Statement of mortgages without possession.

1930	18	109	157	61	34	379	188,602	1	57	147	38	20	263	128,668
1931	5	110	151	43	24	333	161,156	1	59	150	37	24	271	144,493
1932	6	87	136	40	21	290	118,295	3	62	136	42	25	268	150,612
1933	11	79	131	29	18	268	168,476	1	99	131	35	15	261	117,743
1934	4	99	123	24	7	257	72,280	6	86	132	26	20	269	104,654

STATEMENT IX.—Statement of mortgages with possession.

1930	1	8	10	4	1	24	2,863	..	30	71	23	15	139	77,374
1931	..	6	8	2	..	16	3,995	5	40	67	22	9	143	57,568
1932	4	6	8	3	2	23	13,887	4	48	84	37	13	186	211,437
1933	..	7	11	1	..	19	4,118	4	48	77	25	10	164	69,067
1934	2	6	8	2	..	21	4,285	5	43	86	16	12	162	63,654

STATEMENT X.—Statement of bonds.

1930	..	18	10	2	1	31	6,853	..	1	5	1	..	7	1,510
1931	..	14	18	3	..	36	5,172	..	3	6	..	..	9	1,826
1932	..	21	10	..	..	32	4,580	1	4	3	..	..	8	910
1933	..	16	9	..	..	25	4,000	5	7	..	..	..	17	1,030
1934	..	12	8	1	1	17	7,686	1	4	2	..	..	6	785

Year.	Above three years—Number in which the amount of loan is						No term—Number in which the amount of loan is						
	Rs. 25 and less.	Between Rs. 26 and Rs. 100.	Between Rs. 101 and Rs. 500.	Between Rs. 501 and Rs. 1,000.	Above Rs. 1,000.	Total number of transactions.	Total amount.	Rs. 25 and less.	Between Rs. 26 and Rs. 100.	Between Rs. 101 and Rs. 500.	Between Rs. 501 and Rs. 1,000.	Above Rs. 1,000.	Total number of transactions.	Total amount.
(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)

STATEMENT VIII.—Statement of mortgages without possession—cont.

1930	4	43	143	57	32	279	189,555	7	143	249	99	71	569	355,116
1931	1	14	83	55	42	195	210,789	12	127	244	84	79	546	377,227
1932	..	15	92	43	32	182	175,400	9	143	254	100	54	560	331,444
1933	..	32	122	48	46	248	221,245	9	172	197	64	36	478	225,398
1934	..	10	133	35	48	236	213,180	15	145	208	71	28	467	188,768

STATEMENT IX.—Statement of mortgages with possession—cont.

1930	1	20	48	19	18	115	91,487	1	22	25	11	2	61	22,243
1931	4	18	34	33	22	111	80,913	1	17	33	5	6	62	22,558
1932	2	18	69	22	15	128	74,917	4	30	33	7	11	85	33,194
1933	2	43	43	28	17	135	77,873	5	24	45	4	7	85	28,478
1934	1	36	64	20	15	138	76,027	6	25	25	5	8	69	38,653

STATEMENT X.—Statement of bonds—cont.

1930	..	1	..	..	..	1	50	1	12	12	7	26	58	123,361
1931	..	..	3	1	..	4	2,032	..	15	5	6	17	43	74,176
1932	..	1	..	..	3	3	143,100	..	7	14	2	14	37	49,905
1933	..	4	5	..	..	9	1,310	..	4	18	13	10	43	51,670
1934	..	4	4	1	..	9	2,610	..	7	6	2	7	22	23,555

As regards mortgages with and without possession, the most popular periods of loan seem to be the *no term* ones, while those *above three years* and *between one and three years* are second and third in demand. There are, however, quite a number of loans on mortgages for periods below one year. Most of the bonds relate to *no-term* ones.

requested District Collectors kindly to depute Assistant Collectors and selected Revenue Divisional Officers, Tahsildars, and Deputy Tahsildars to hold detailed enquiries in one village each on a plan outlined by me. The reports from these officers for 141 selected villages in this Presidency will be found in *Appendix II. Actually, reports relating to about 160 villages were received, but after careful scrutiny I was obliged to reject about 20 reports for various reasons,—villages not being typical, irreconcilable figures, omissions and so on. The investigators were requested to attend personally to the enquiry and to approach villagers with tact and sympathy in order to win their confidence.

CHAPTER IV—VOLUME AND DISTRIBUTION OF AGRICULTURAL INDEBTEDNESS.

39. *Results of investigation by officers of the Revenue department.*—As no special investigators under me were appointed for detailed enquiries in selected villages, I

* Not printed.

submit however that the figures furnished in these reports cannot be quite accurate, considering that most of the important columns had to be filled up from oral evidence. The villager is notoriously suspicious of those, especially officials, who wish for information from him and seldom gives a plain and accurate statement of his affairs. If he feels that his interlocutor is there to enhance his taxes, he will magnify his liabilities and underestimate his assets and profits. If he feels that his questioner has come to force him to pay off what he owes, he will become secretive about his liabilities to his creditors. It is difficult to blame the ryot. After all, it is asking much of him to make all his private affairs public. Hence, all such information should be accepted with the greatest caution and reserve. I append below a tabular statement compiled from the results of the enquires made in the 141 villages referred to above. It

will be noticed from the statement that several columns do not tally. For instance, the figures furnished in column 2-a seldom correspond with the total of the figures furnished in columns 2-e to 2-i. The differences can probably be explained by the temporary or permanent absence from villages of ryots and labourers and also by the fact that *farm servants* do not by any means include all farm labourers. The figures in column 8 do not often correspond with the totals of the figures in columns 9, 10 and 11. The discrepancy is probably due to the fact that a number of absentee agriculturists, who own lands in the village have been included either in column 8 or in one of the columns 9 to 11. The absentee landlord, who owns land in one or more villages, has proved a great stumbling block to the investigators who did not, I imagine, all follow the same principles in compiling the figures.

STATEMENT No. 18.—Results of investigations by Assistant Collectors, Revenue Divisional Officers, Tahsildars and Deputy Tahsildars in 141 selected villages in the Madras Presidency in 1935.

Districts and number of villages.	Population.										Number of regular money-lenders in the village whose profession is money-lending.	Number of agriculturists who are money-lenders.	Number of registered holders of land who are free from debt.	Number of tenants free from debt.	Number of farm labourers free from debt.	Number indebted.	Number of registered land-holders indebted.	Number of tenants indebted.	Number of farm labourers indebted.	Debt per head of population.	
	Men.	Women.	Children.	Families.	Number holding land on ryotwari and inam tenure on single pattas.	Number holding land on ryotwari and inam tenure on joint pattas.	Number of tenants on long-term leases including zamindari tenants.	Number of tenants-at-will.	Number of farm servants.	Population.											
(1)	2 (a)	2 (b)	2 (c)	2 (d)	2 (e)	2 (f)	2 (g)	2 (h)	2 (i)	2 (j)	(8)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	
Ganjam	4	1,587	2,355	2,629	1,566	879	1,106	3	830	188	6,551	1	64	226	103	193	1,020	771	102	303	24
Vizagapatam	6	5,534	4,586	3,429	2,860	547	487	341	107	757	18,549	6	81	236	208	2,231	789	367	475	20	
East Godavari	1	2,060	2,099	1,034	1,602	174	201	..	55	22	5,193	7	17	179	31	234	196	24	14	28	
West Godavari	7	11,027	10,987	5,041	5,530	2,412	1,521	141	833	2,831	27,055	2	119	881	221	916	3,732	2,392	823	1,536	64
Kistna	3	4,259	3,934	3,933	2,491	904	658	23	305	734	12,126	20	44	39	5	407	2,892	1,042	249	442	55
Guntur	5	9,480	8,750	6,560	5,318	2,320	4,734	11	901	1,773	24,770	10	66	446	473	706	5,447	4,884	365	1,097	52
Nellore	2	5,059	5,108	3,565	2,917	450	435	86	60	225	13,730	58	29	52	15	1,500	508	183	225	20	
Total ..	28	38,966	37,817	26,191	23,384	7,488	9,142	610	2,701	8,530	102,974	104	420	2,059	1,054	2,585	17,056	10,582	2,107	4,061	44
Cuddapah	2	3,022	3,154	1,886	1,688	865	584	225	25	370	8,062	10	65	186	28	175	779	637	217	245	24
Anantapur	7	10,802	10,290	2,088	5,530	2,099	1,377	805	1,453	1,119	23,580	92	137	364	551	343	3,250	2,819	1,893	783	24
Bellary	2	589	539	957	265	181	44	..	154	8	1,785	..	9	55	56	10	97	159	88	57	50
Kurnool	16	13,902	13,510	8,783	6,739	3,207	6,187	229	973	1,403	38,195	26	222	1,049	117	491	6,235	5,734	1,039	949	36
Chittoor	2	2,661	2,642	1,689	1,116	755	703	..	298	592	6,792	7	52	140	199	239	239	860	157	22	38
Total ..	29	30,776	30,035	15,603	15,338	7,107	8,895	759	2,901	3,492	76,414	135	485	2,794	589	1,042	10,600	9,659	3,394	2,056	32
Chingleput	6	8,205	8,655	8,413	4,761	3,024	906	301	1,623	841	25,364	7	125	337	359	151	4,608	3,094	1,085	638	41
North Arcot	12	12,176	12,335	5,951	5,824	2,877	2,058	49	633	1,145	30,512	29	131	236	53	109	5,128	3,856	559	832	36
South Arcot	5	5,243	5,498	3,198	2,416	963	908	41	59	1,355	13,939	20	47	66	8	515	1,544	911	124	297	23
Tanjore	8	3,268	3,708	1,138	1,034	737	33	208	1,112	5,112	..	1	14	117	38	19	1,438	925	150	665	62
Trichinopoly	5	4,258	4,194	3,244	2,720	1,631	690	179	323	220	11,694	8	126	395	345	170	1,125	1,002	234	91	129
Madura	8	10,450	20,338	21,360	18,614	5,023	3,480	600	3,045	4,176	61,643	30	184	1,487	594	1,827	11,944	5,060	2,563	5,279	24
Ramanad	9	12,846	15,466	7,581	8,891	2,994	4,247	132	1,397	25,352	35,893	25	76	1,924	735	1,202	7,238	4,732	663	957	33
Tinnevely	3	13,744	15,332	7,580	8,284	4,145	7,081	4	3,230	1,416	36,665	1	420	2,644	801	352	4,837	4,321	2,230	1,064	38
Coimbatore	10	12,672	11,900	6,115	4,655	1,770	1,389	315	437	3,239	32,687	2	229	331	99	1,026	2,356	1,977	564	2,186	42
Salem	3	2,755	2,699	996	1,204	698	731	..	18	1,429	6,450	..	74	375	6	1,204	390	458	32	92	23
Total ..	74	94,706	100,175	68,083	50,238	23,364	21,922	1,654	10,973	17,335	262,964	133	1,426	7,912	3,030	6,695	40,708	26,345	8,254	12,351	28
The Nilgiris	2	1,138	1,087	1,246	592	225	410	..	8	141	3,471	..	11	119	..	170	602	542	8	170	26
South Kanara	5	4,424	4,777	3,483	2,395	846	294	079	741	2,285	12,684	2	20	133	99	944	3,949	885	1,308	1,243	55
Malabar	3	2,027	2,189	3,417	1,469	739	69	777	127	966	7,633	..	78	42	94	312	1,917	375	968	784	21
Total ..	10	7,589	8,053	8,146	4,458	1,810	773	1,456	876	3,392	23,788	2	109	344	193	1,426	6,528	1,809	2,284	2,158	40
Grand total ..	141	172,037	176,080	118,023	92,366	40,267	40,732	4,479	17,541	30,749	486,140	364	2,440	12,109	4,866	11,728	74,892	48,368	16,039	30,620	28

STATEMENT No. 18.—Results of investigations by Assistant Collectors, Revenue Divisional Officers, Tahsildars and Deputy Tahsildars in 141 selected villages in the Madras Presidency in 1935—cont.

(1)	Debt per family.			(15)	(16)	(17)	(18)	(19)	(20)	Debts on security of immovable properties from			Debt without security from		(23)	(24-a)	(24-b)	Total debt.		
	(13)	(14)	(15)							Government.	Co-operative Societies.	Money-lenders, professional and otherwise.	Co-operative Societies.	Money-lenders professional and otherwise.				(24-c)	(24-d)	(24-e)
	Rs.	Rs.	Rs.																	
Ganjam	4	99	2,068	1,321	1,647	..	52	8,315	10	1,072	2,230	40,890	12,262	93,869	2,024	2,495	1,072	14,492	1,87,773	1,54,892
Vizagapatam	6	95	5,822	2,700	2,704	41	47	24,171	9	4,002	4,668	1,50,032	6,648	99,974	6,120	..	4,002	11,316	2,56,128	2,71,444
East Godavari	1	89	748	309	112	327	192	6,984	21	..	5,500	29,700	2,915	1,08,765	1,455	..	..	8,418	1,84,020	1,43,535
West Godavari	7	314	21,085	12,997	5,031	284	82	1,13,364	15	2,150	74,049	9,17,305	42,782	6,60,590	19,000	19,800	2,150	1,16,831	15,96,895	17,86,676
Kistna	8	267	7,481	4,661	2,464	212	89	46,723	14	100	40,050	1,78,960	5,265	4,18,535	21,000	1,390	100	45,315	6,18,495	6,65,300
Guntur	5	240	18,196	4,276	16,139	170	70	76,039	17	4,632	39,202	1,20,938	38,744	10,37,239	35,000	..	4,632	77,046	11,03,177	12,76,795
Neelore	2	95	9,519	170	4,618	..	29	8,859	31	..	1,076	1,50,700	6,538	1,17,100	2,000	..	..	7,614	2,69,300	2,77,414
Total ..	28	203	65,819	26,434	32,975	1,184	69	2,89,453	15	11,936	1,66,775	15,88,525	1,15,154	25,31,062	35,599	29,685	11,956	2,81,929	42,06,186	45,23,756
Cuddapah	2	113	4,548	1,385	4,470	420	41	15,397	12	1,300	5,800	21,560	2,020	1,56,495	2,370	..	1,300	7,320	1,80,925	190,045
Anantapur	7	101	22,004	4,339	18,423	82	25	88,115	15	39,622	54,527	1,21,005	21,328	2,42,524	76,916	..	39,622	75,853	4,40,445	555,920
Bellary	2	339	4,353	..	8,813	..	21	2,971	30	2,676	7,375	50,397	425	27,233	1,100	..	2,676	8,300	78,730	29,760
Kurnool	16	198	11,272	7,080	58,997	1,71	18	88,290	15	8,141	45,240	4,12,580	14,974	7,92,868	26,600	15,274	8,141	60,214	12,32,048	1,315,377
Chittoor	2	229	5,696	854	4,843	1,000	45	9,565	27	1,505	6,330	1,02,160	..	54,935	1,000	..	1,505	6,380	2,48,145	2,56,080
Total ..	29	157	108,473	13,658	90,516	3,231	22	1,87,338	15	53,244	1,19,823	7,97,702	38,745	19,74,105	1,08,486	15,374	53,244	1,58,567	21,80,393	24,07,378
Chingleput	6	220	13,917	6,623	4,237	82	75	54,018	19	12,003	43,643	5,34,049	94,521	2,43,254	82,157	32,165	12,003	1,32,164	8,66,863	10,49,275
North Arcot	12	149	11,710	2,976	8,556	249	74	33,502	26	20,507	1,46,968	4,08,452	21,374	1,89,317	25,979	53,590	20,507	1,68,342	6,24,338	84,66,777
South Arcot	5	131	3,628	1,251	3,781	30	82	17,892	13	4,975	14,698	1,69,686	2,361	1,02,011	8,400	13,000	4,975	17,077	2,80,347	3,15,899
Tanjore	8	282	5,793	4,855	3,997	86	86	38,268	13	4,510	8,901	1,50,508	11,750	2,95,194	11,000	33	4,510	10,951	4,76,762	6,01,358
Trichinopoly	5	553	7,52	2,974	3,432	720	211	29,325	51	381	33,777	1,62,110	11,814	2,04,204	2,392	10,91,828	381	45,591	3,69,006	15,07,406
Madura	8	112	24,274	7,496	16,256	1,596	62	76,320	20	12,230	66,492	6,08,970	46,433	5,08,397	47,500	18,000	12,230	1,12,925	18,62,767	16,05,922
Ramnad	9	133	22,603	3,244	18,784	745	52	58,017	33	3,115	11,857	5,09,540	7,502	5,62,675	89,800	..	3,115	19,359	11,03,015	11,85,480
Tinnevely	8	167	25,195	4,962	9,326	445	55	40,648	28	9,355	4,997	7,65,014	10,435	5,71,838	10,555	..	9,355	15,132	13,56,407	13,80,394
Coimbatore	10	318	20,612	1,461	20,587	3,274	50	32,936	45	40,225	30,632	9,80,650	4,550	3,98,504	22,934	980	40,225	35,082	14,01,988	14,78,225
Salem	3	174	5,754	422	6,332	..	37	8,555	25	2,545	1,024	57,220	80	1,51,663	..	..	2,545	1,704	2,09,083	2,18,332
Total ..	74	199	1,47,141	38,264	89,783	7,237	68	3,76,481	27	1,09,936	3,63,087	45,64,302	2,10,240	32,25,857	3,20,507	12,09,548	1,09,936	5,73,327	31,10,666	3,06,63,477
The Nilgiris	2	150	4,536	1,373	2,832	832	20	6,715	13	3,450	14,550	11,450	1,200	56,350	1,600	..	3,450	15,760	69,400	78,700
South Kanara	5	292	4,629	2,102	2,125	1,680	151	24,193	29	1,890	4,53,379	8,990	2,28,013	12,297	..	..	1,890	5,880	6,93,589	6,99,469
Malabar	3	111	6,756	1,308	2,103	1,35	24	11,434	14	511	50	1,04,652	1,901	42,752	9,000	3,660	511	2,011	1,58,604	1,62,966
Total ..	10	313	15,921	4,783	7,060	3,365	60	42,342	22	3,961	16,490	5,69,531	7,151	3,21,115	2,837	3,360	3,961	23,641	9,19,533	9,51,055
Grand total ..	141	194	337,354	63,139	320,339	14,947	63	3,65,61	21	1,79,097	6,66,174	75,20,110	3,71,230	73,58,139	5,38,489	12,52,367	1,79,097	10,37,464	1,54,16,733	1,76,85,366

The following results are worked out or abstracted from this statement and should, I again submit, be accepted only as rough averages:

	Agricultural population.
Registered holders	54
Tenants	18
Labourers	28
	100

As a result of assignments to the labouring classes, many labourers have now become small holders of land. They are also frequently tenants in a modest way. Small landholders may also be tenants and may also hire themselves out as labourers in their spare time. All these contingencies should be taken into consideration when valuing these figures.

The percentages of those free from debt to those examined are as follows:—

Registered holders	21
Tenants	23
Farm labourers	36

The debt per head of population is 38. The debt per family is 194.—Thus, there are on an average five members to a family.

The debt per acre of occupied land (ryotwari, inam and zamindari) is 63. The debt per rupee of assessment (ryotwari, inam and rental to zamindars) is 21.

There are, in 161 villages, 2,440 agriculturist money-lenders operating, as compared with 364 professional money-lenders like Marwaris, the proportion being about 7 to 1. Traders and money-lenders, not belonging to the professional money-lending classes, have, I believe, not been included in these figures. The total debt in 141 villages is Rs. 1,78,85,663 and has been borrowed in the following proportions from different kinds of creditors.

Government (takkavi)	1
Co-operative societies	6
Others, mainly ryot money-lenders	93
Total	100

The total debt is divided as follows:—

Mortgage debt	47
Unsecured debt	50
Debt on security of movables	3
Total	100

40. Total debt on population basis.—According to statement No. 18, the debt per head of population is Rs. 38 as compared with Rs. 37, arrived at by the Madras Banking Enquiry Committee in 1930. It was obviously not possible for the investigators to include the indebtedness of the larger landholders, who do not live in the villages where they own lands. Often these landholders own lands in several villages. I shall demonstrate later by figures that the debt per head increases with assets. The more land a man holds, the more is he indebted, so that the average debt per head of those who pay over Rs. 100 in assessment is very nearly a thousand rupees. This unavoidable omission to record the debts of

the landlords, who live away from the localities in which they own land, has undoubtedly vitiated to some extent the results arrived at, especially of the debt per head. I consider that the figure Rs. 38 is too low and should be increased by at least 10 per cent to include these larger landholders, who have not been enquired into. I therefore propose to adopt Rs. 42 as the debt per head of population. The next point to be decided is by what figure this debt per head should be multiplied to give the agricultural debt for this presidency. The Madras Banking Enquiry Committee in 1930 chose the figure given for total population according to the 1921 census. This was 42 millions. Actually, in 1930, the total population was about 46 millions, as the 1931 census gave 46.7 millions. Both the censuses of 1921 and 1931 conclude that 71 per cent of the population was supported by agriculture. The Madras Banking Enquiry Committee did not choose to adopt this proportion for purely agricultural population in 1921, which should have been 71 per cent of 42 millions. The committee must have had sound reasons for this procedure. I believe that the total population was chosen, in preference to the population supported by agriculture, because almost every Indian family in India has some sort of landed interest or other, though all are not supported by agriculture. I shall therefore follow the lead of the Madras Banking Enquiry Committee and multiply the debt per head by the total population. The 1931 census gave 46.74 millions as the total population. Assuming that population increased from 1931 to 1935 at the same rate as from 1921 to 1931, we should have a population in 1935 of about 48.57 millions. The total agricultural debt on the population basis is therefore Rs. 42 × 48.57 million or Rs. 204 crores.

41. Total debt on average basis.—The results of the present investigations are worth comparing with the results of the Madras Banking Enquiry Committee.

	Debt per acre.	
	1930.	1935.
Northern circars	62	69
Ceded districts	23	22
Tamil districts	62	68
West coast	65	60

The average worked out by the Madras Banking Enquiry Committee in 1930 was Rs. 51. I have worked out the average by dividing the total debt in the 141 villages investigated into by the total acreage under occupation and have arrived at the figure Rs. 63.

The Madras Banking Enquiry Committee multiplied Rs. 51 by the total acreage under ryotwari holdings and arrived at Rs. 149 crores. The area under zamindari held by occupancy tenants was not included by the Committee. I submit that this area should be included, as we are also dealing with the indebtedness of occupancy tenants and such have quasi-proprietorial rights over their

lands. The area under ryotwari holdings in 1933 was 27,880,566 acres. To this, I add the rough figure 5,000,000 acres as the area held by occupancy tenants in zamindaris. The total comes to 32,880,000 acres. The total agricultural debt on the acreage basis is therefore Rs. 63 × 32,880,000 or Rs. 207 crores.

42. *Total debt on assessment basis.*—The debt per rupee of assessment, or zamindari rent, is Rs. 21 as compared with Rs. 19 arrived at by the Madras Banking Enquiry Committee in 1930. The Committee multiplied 19 by the ryotwari assessment and rental on zamindari land, and arrived at a total of Rs. 153 crores. I submit that cesses on ryotwari amount must be included as the investigators include cesses in their calculations. When an agriculturist is asked what land revenue he pays, he invariably gives a figure which includes cesses.

The assessment in fasli 1343 was Rs. 5,97,07,979. The rental in zamindaris under the same fasli was Rs. 2,38,28,737. Cesses on ryotwari and miscellaneous was Rs. 84,08,220. These total to Rs. 9,19,45,000. The total agricultural debt on the assessment basis is therefore Rs. 21 × 9,19,45,000 or Rs. 193 crores.

43. *Total estimated debt.*—The total debt has been calculated by the above three rough methods and the results agree closely. I would therefore estimate the total agricultural

debt in this presidency at the present day at about Rs. 200 crores. The detailed enquiries which led to this estimate were made in February, March and April of this year. This estimate obviously excludes petty loans entered in Katha accounts and loans in kind.

44. *Mortgage debt.*—The Madras Banking Enquiry Committee arrived at the total debt by another method. They multiplied the average per year of the aggregate value of mortgages by three, added to this the aggregate value of bonds in 1928 multiplied by two and called this the outstanding registered debt, rural and urban. Assuming this to be 50 per cent of the whole debt, they arrived at 134 crores as the total debt. I feel that this method is not very convincing. All my enquiries go to show that the figure 3 by which the aggregate value of mortgages was multiplied to arrive at the mortgage debt, is far too low. It is most difficult, if not impossible, to arrive at the proper multiple. The slightest mistake in this multiple will vitiate total mortgage debt enormously. Again, there has been no allocation between rural and urban debt, and I doubt if the figure 2, by which value of bonds was multiplied, is the correct one. The estimates are too rough.

I give below a statement taken from figures for the last ten years, furnished by the Registration department of gifts, sales, mortgages and bonds:—

STATEMENT No. 19.—Taken from the administration reports of the Registration Department.

	Gift.		Sale.		Instruments of mortgage.		Bonds.	
	Number.	Aggregate value. RS.	Number.	Aggregate value. RS.	Number.	Aggregate value. RS.	Number.	Aggregate value. RS.
1924	17,822	1,28,39,120	575,361	27,24,86,525	506,918	19,94,18,477	30,669	2,39,68,085
1925	18,146	1,49,93,865	587,103	28,09,76,020	608,355	20,10,06,341	30,335	2,49,37,524
1926	19,726	1,53,08,939	689,702	28,84,35,392	494,227	19,71,02,316	29,857	2,40,06,099
1927	20,295	1,63,17,938	625,321	31,69,90,803	525,747	20,56,72,478	33,952	3,09,07,501
1928	21,034	1,67,03,093	643,268	32,68,60,591	510,974	19,87,43,259	32,255	3,43,20,954
1929	21,807	1,73,34,310	649,409	32,44,12,602	485,850	19,65,66,096	31,308	3,17,12,924
1930	20,732	1,65,79,881	581,438	29,00,09,465	444,182	18,93,04,547	33,150	3,09,39,681
1931	18,749	1,31,07,972	503,785	24,59,67,009	389,487	17,69,89,913	26,651	2,01,18,932
1932	22,537	1,42,09,530	623,080	28,04,00,364	418,235	17,68,50,031	21,051	1,00,85,632
1933	22,172	1,32,30,127	595,661	25,61,06,946	388,582	15,34,35,523	19,549	93,71,427

This statement shows that, as regards gifts, sales, mortgages and bonds, registered by the Registration department in the last ten years, the highest numbers and values were reached in the years 1927 to 1929 and thereafter there was a steady decline in all these transactions. So far as gifts and sales are concerned, the lowest point was reached in 1931 and they have increased thereafter in number and value. Mortgages have been dropping steadily from 1927 to 1933, and so also have bonds been declining from 1927 to 1933, except for a sudden and temporary leap upwards in 1930. These figures clearly indicate that fresh borrowings in the depression period are less than before the depression, and that every year the amount borrowed is getting less. Legitimate sales of land are naturally falling during the depression, owing to the remarkable decline in the value of land. The worst year for sales and gifts in the last ten years was 1931. Thereafter, there has been a rise, which I suspect is due, not to the desire for land as an investment but to the forcing of clients by lenders of money to part with their lands in part or whole payment of their debts.

I may also add that there is the growing tendency for unsecured debts to become converted into secured debts, at the insistence of money-lenders, who are finding that their free-and-easy methods of letting unsecured debts accumulate *ad infinitum* is becoming dangerous in this depression period, when land is steadily falling in value, and the return from the land in terms of money is also on the decline. In spite of these definite trends, fresh mortgages are steadily falling year by year, which is a clear indication that the agriculturist, along with others, is finding it harder and harder to obtain fresh credit.

45. *Nature of security.*—As already stated, the total debt consists of about 47 per cent mortgage debt, 50 per cent unsecured debt and 3 per cent debt on the security of movables—gold, silver and crops mostly.

46. *The purpose of borrowing.*—The investigators responsible for the figures in statement No. 18 have attempted to classify from enquiries the purposes for which debt was incurred. This classification, which must be accepted with the same caution as the figures

for total debt, is furnished in the following statement:—

Purpose of borrowing—	Rs.	Per cent.
Payment of prior debts	44,85,400	25.1
Marriage and other ceremonies.	18,80,761	10.5
Payment of land revenue.	5,84,173	3.3
Relief of distress	10,88,377	6.1
Agricultural expenses	17,87,457	10.0
Improvements to land	7,88,709	4.4
Education of children	2,47,337	1.4
Trade	23,01,937	12.9
Purchase of land	24,74,715	13.8
Construction of houses	10,08,416	5.6
Other expenses	12,38,384	6.9
Total debt in 141 villages in the Madras Presidency.	1,78,85,666	100

Payment of prior debts takes precedence over all other purposes at 25.1 per cent. It is difficult to decide what really is a productive purpose and what not. For instance, trade and education are necessary and useful and are in this sense productive. If, however, the term *productive* is adopted in the restricted sense of only benefiting the land and helping cultivation, productive purposes should consist of the following: agricultural expenses, improvements to land, purchase of land, construction of houses and payment of land revenue. Education and trade may be mentioned separately, and unproductive purposes should consist of payment of prior debts, ceremonies and relief of distress. Classified thus we get the following results:—

Debts for productive purposes	..	37.1
Debts for unproductive purposes.	..	41.7
Education of children	..	1.4
Trade	..	12.9
Miscellaneous	..	6.9
Total	..	100

Result of personal investigation of 564 families throughout the Presidency.

(1)	(2) Number of families.	(3) Extent of holdings and land taken on lease.	(4) Assessment and rent paid.	(5) Total debt.	(6) Debt for family.	(7) Debt per head.	(8) Debt per acre.	(9) Debt per rupee of assessment.
		AOS.	RS. A. P.	RS.	RS.	RS.	RS.	RS.
Farm labourers owning no lands and paying no assessment or rent	23	..	..	1,739	76	15	..	..
Registered landholders and tenants paying land revenue or rent of Rs. 1 to Rs. 100	306	4,483-03	11,143 8 0	3,23,438	1,057	211	72	29
Registered landholders and tenants paying land revenue or rent of Rs. 100 and above	235	24,738-00	1,85,453 4 0	10,79,186	4,592	918	44	8

It will be seen that the average debt per head increases with assets. While the farm labourer's debt is only Rs. 15 per head, that of the landholder or tenant, who pays assessment or rent, between Re. 1 and Rs. 100, is Rs. 211 and the figure actually rises to Rs. 918 for those who pay assessment or rent of over Rs. 100. The farm labourer and the tenant-at-will have no landed property. No one will therefore lend them much money. So their debt is limited. As regards ryotwari landholders and occupancy tenants, they have the security of land to offer, and the more their security the more their borrowing power, and the more do they actually borrow.

I submit, however, that the *burden of debt* should not be estimated by the amount borrowed alone. A man with a debt of rupees 20,000 may be more solvent than a man with

Debts for productive purposes, excluding trade and education; therefore accounts for only 37.1 per cent, while, unproductive purposes, account for 41.7 per cent. A large amount of this proportion is swallowed by payment of prior debts, while expenses on ceremonies cover about a fourth of the unproductive debt. The argument adduced by so many, that the plight of the agriculturist is entirely due to extravagant expenditure on ceremonies like marriages, is not borne out by these figures. No doubt, expenses on ceremonies do account for 10.5 per cent of the total debt and can well be substantially reduced, but such unproductive expenditure is not by any means the sole cause for the heavy indebtedness of the people.

Before the depression, much money was spent on investing and speculating on land and as much as 13.8 per cent of the indebtedness is accounted for in this way. Now, sales are dwindling for want of buyers, who find they have better sources of investment than land. A significant fact is the very small sum spent on the education of children. Payment of land revenue has caused only 3.3 per cent of indebtedness, while relief of distress (most of the borrowings under this head I believe were in recent years after the depression) has led to 6.1 per cent of the debt.

47. *Indebtedness among different classes.*—The theory that debt follows credit is well illustrated by the indebtedness per individual of different classes of agriculturists. I made personal investigations of about 560 agricultural families scattered throughout the Presidency and recorded detailed statements from the representatives of each of them and the following are some of the results:—

a debt of Rs. 500. The proper criterion of the burden of debt is the proportion which indebtedness bears to assets.

Labourers and tenants-at-will generally have no landed property at all and so their burden of debt is heavy, though the amount is trivial. As already stated about 36 per cent of them are free from debt and the average debt per family is about Rs. 76. Labourers and tenants-at-will live a frugal and simple life and spend very little on clothes and food. Their only items of extraordinary expenditure are ceremonies and drink. The average labourer spends as much as Rs. 100 on a marriage, for which he generally borrows by binding himself to service under his creditor for a fixed period of years. Much money is spent on drinking. Such classes have few commitments in money. The labourer, who

is paid in grain wages, has not suffered any loss in income in kind as the result of the depression. Those paid in cash wages have been forced sometimes to accept a lower money wage as a result of the depression; but wages have certainly not fallen in the same proportion as prices have. Indeed wages in certain places have not fallen at all while prices of commodities have dropped steeply. The position of labourers and tenants-at-will is, therefore not as alarming as the position of other classes of agriculturists.

Small and medium landholders including occupancy tenants who pay assessment or rent from Re. 1 to Rs. 100 are the hardest hit of all the agriculturist classes. They form the great bulk of the landowning or landholding classes and are the backbone of the agricultural industry in India. They are the people who generally live in the villages and personally attend to the cultivation of their lands. There are few absentee landlords among them. Their lands are the best tended and cultivated of all. Though the debt per head among them of Rs. 211 and per family of Rs. 1,057 is less than the debt per head and family of the bigger landholders, the debt per rupee of assessment and the debt per acre is far higher than among those who own or hold more land. This will be clearly seen from the previous statement. The debt per acre among these small and medium farmers is Rs. 72 and the debt per rupee of assessment or rent is Rs. 29, and only about 18 per cent of them are free from debt. They live frugal lives no doubt, but, in order to keep up their status and prestige as respectable *pattadars*, are obliged to spend large sums on ceremonies. Caste imposes many unhappy restrictions upon them. They are often too proud to work as labourers, or to engage in subsidiary occupations. They are the people, who are burdened with the heaviest debt and who are steadily losing their lands to their creditors. I have indicated in paragraph 11 how the number of *pattadars* paying Rs. 100 and less has actually fallen by 32,67,537 between faslis 1335 and 1340. It is this tendency for land to pass from the cultivating small and medium owners into the hands of absentee landlords, which needs to be checked as soon as possible and the only direct way in which this can be done is to relieve the former of their pressing burden of debt, without forcing them to part with their lands.

The larger and big landholders who pay over Rs. 100 in assessment or rent are also badly hit, but not to such an extent as the small and medium ones. The average debt per head among them is about Rs. 918, but the debt per acre and per rupee of assessment is only Rs. 44 and Rs. 8, respectively, as compared with Rs. 72 and Rs. 29 among the small and medium landholders.

There are many absentee landholders among those who pay over Rs. 100 in assessment. Many do not depend upon the land for a living, but earn their livelihood as Government servants, or in professions like law and

medicine. The very big landlords include among them prosperous money-lenders (professional or otherwise) who have acquired most of their lands by court sales or private sale in discharge of debts due to them. If, from this class of those who pay over Rs. 100 in assessment, we exclude all those who do not support themselves solely or mainly by agriculture, we shall be left with a class of large and big landholders who are supported almost solely by agriculture and members of this class are almost but not quite as badly involved in debt as small and medium landholders. Some cultivate their lands in person and others are absentee landlords who lease out to tenants. The average debt per head and family among them will be above Rs. 1,000 and Rs. 5,000, respectively. About 20 per cent of this class will be free from debt.

48. *Relation of debts to assets.*—My personal enquiries from 541 landholding families led to the following results:—

Their landed property, consisting of 12,663 acres of wet land, 16,406 acres of dry land and 108 acres of garden, was worth Rs. 1,57,00,000 before the depression. The present value, they state, of the same property is only Rupees 68,56,000. The total indebtedness of these families was found to be Rs. 14,02,000. This showed that the relation of debt to value of landed property before the depression was 9 per cent, but at the present is 20 per cent. These figures show in a striking manner the effects of the depression.

49. *Credit agencies.*—As already seen, borrowing from different kinds of creditors can be divided as follows:—

Government	1
Co-operative societies	6
Others	93
	<hr/>
	100

Government (takavi loans) and co-operative societies together account for only 7 per cent of the total debt. Creditors, other than Government and co-operative societies, account for 93 per cent of the debt. Agriculturist money-lenders are the biggest money-lenders, followed by professional and trader money-lenders. Banks do not lend much direct to agriculturists. The Imperial Bank of India lends to a certain amount on the security of produce, provided proper godowns for storage are forthcoming. Unfortunately such godowns are extremely scarce and if I am asked how best I would spend a goodly sum of money for the relief of the agriculturist, I would say, "first build good godowns all over the country, secondly dig wells and then improve village communications."

CHAPTER V—CIVIL COURTS.

50. The following statement furnishes civil court statistics for mufassal courts for ten years from 1924 to 1933.

STATEMENT No. 20—Civil Court Statistics.

Year.	Number of suits for money or movable property.	Number of mortgage suits.	Number of execution applications received (except village and panchayat courts).	Satisfactions obtained in full.	Satisfactions obtained in part.	Wholly infructuous.	Amount realized in execution.	Number of debtors imprisoned in execution.	Number filed.	Number granted.	Number refused.
1924	489,544	22,046	353,460	55,292	29,954	265,908	1,68,25,105	3,782	8,208	1,767	171
1925	525,555	22,429	360,225	57,905	32,094	267,748	1,73,73,120	3,658	3,419	1,980	228
1926	520,913	24,212	367,307	58,996	33,600	271,867	1,92,40,072	3,782	3,865	1,988	187
1927	483,065	24,267	388,924	59,088	35,101	273,960	2,18,30,490	3,966	4,245	3,097	198
1928	453,616	23,001	370,683	60,771	36,151	276,315	2,15,68,754	4,082	4,345	2,694	233
1929	470,200	21,995	365,034	59,906	36,478	267,598	2,24,43,998	3,943	4,300	2,794	221
1930	478,404	20,544	374,000	57,146	37,282	274,110	2,30,23,468	4,030	4,893	3,037	243
1931	559,592	20,754	383,277	60,088	41,832	285,046	1,98,24,927	4,505	6,334	3,830	179
1932	571,613	23,644	403,952	62,936	40,821	298,742	2,26,34,184	4,544	6,478	4,667	238
1933	556,815	22,767	399,004	47,595	48,817	300,440	2,29,08,733	4,417	6,104	4,546	310

The number of suits for money or movables and the number of mortgage suits have not risen conspicuously from 1924 to 1933. A more or less steady average has been maintained in these years; there has been a slight increase in both classes of suits, in spite of the acute economic depression. As regards execution proceedings, the number, in which full satisfaction was obtained, rose from 1924 to 1928, when the depression commenced in earnest, and thereafter fell more or less steadily. The number of wholly infructuous cases however has steadily increased through the ten years under review. The number of debtors imprisoned in execution shows a steady and substantial increase. Insolvency petitions have also increased so that the number granted in 1933 is more than double the number granted in 1924.

Statement No. 20 exhibits figures for all classes of people, not agriculturists alone. Much difficulty was felt in obtaining figures relating only to agriculturist defendants and applications for insolvency. After much correspondence, it was decided that the term should cover all those who gave their occupations as *cultivation* or *agriculture*. The old records in civil courts had to be examined in detail and figures extracted. Many records were not available and some had been destroyed. Eventually, only thirteen District Judges were able to send me figures for the years 1930 to 1934. These have been consolidated and tabulated and the result is furnished below. For the reasons given above, the figures may not be quite accurate. The full reports of the District Judges will be found in Appendix III.

STATEMENT No. 21.—Civil Court Statistics (Original and Small Causes)—Thirteen districts (Figures for the remaining districts not received or incomplete).

Years.	Number of suits instituted in the Civil Courts in districts against defendants whose profession is agriculture or cultivation in the discharge of debts.	Total value of such suits.	Number and value of such suits on promotes without security.		Number and value of such suits on the security of immovable property.		Number and value of such suits on the security of movables.	
			Number.	Value.	Number.	Value.	Number.	Value.
1930	47,975	1,52,30,383	37,859	98,04,022	6,096	54,38,618	352	66,209
1931	53,620	1,74,55,584	44,772	1,17,98,704	5,953	43,47,742	320	58,184
1932	55,857	1,85,92,011	49,462	1,20,29,233	5,081	77,39,652	315	50,978
1933	52,881	1,98,70,141	42,918	1,00,57,850	7,442	54,02,573	496	59,707
1934	47,394	1,55,52,935	37,608	87,73,265	7,151	61,46,477	307	39,565

Years.	The average duration of suits.	Number of decrees passed in favour of plaintiffs.	Number of decrees passed in favour of defendants.	Value of decrees passed on behalf of plaintiffs.	Area, assessment and value of land which has passed from defendant to plaintiff through Civil Courts as a result of decrees against defendants.	Number of agriculturists and cultivators who have put in insolvency petitions.
1930	397	45,109	4,833	1,37,59,855	Not complete.	977
1931	574	50,936	5,239	1,62,85,708	Do.	1,494
1932	384	52,893	6,309	1,69,75,004	Do.	1,610
1933	322	50,623	5,450	1,49,77,040	Do.	1,363
1934	489	42,064	4,728	1,11,99,867	Do.	1,320

It will be seen that the number of suits against agriculturists in the discharge of debts is almost the same in 1934, as in 1930. The

highest point was reached in 1932 and thereafter there has been a steady falling off which shows as far as I can see, not that creditors

* Not printed.

are pressing agriculturists less heavily to discharge debts, but that private negotiations are being increasingly resorted to in discharge of debts, in preference to taking the cases to civil courts. Cases brought to court for unsecured debts far exceed those for secured debts. The average duration of suits is startlingly high, exceeding 400 days or approaching a period of two years. One can imagine the great cost to the parties, incurred in travelling long distances to appear at these courts over and over again for a single suit, often to waste their time and money in idle waiting because of inevitable adjournments. As might be expected, the plaintiffs have won in about 90 per cent of the suits. Insolvency among agriculturists was highest in 1932 and thereafter decreased somewhat, but the insolvency petitions in 1934 are far higher than in 1930.

51. *Treatment of usury and other mal-practices of money-lenders by civil courts.*—I asked all District Judges kindly to furnish me with particulars of the extent to which the Usurious Loans Act was worked in the districts with details of the number of cases in which interest had been cut down and particulars of the interest eventually awarded. The replies were vague and incomplete and not capable of being tabulated. Several District Judges were not able to give any information whatever on the subject. I have given below the answers received to these questions.

Extracts regarding the working of the Usurious Loans Act from the reports of the District Judges.

Ganjam District Munsif's Court, Sompetta.—The provisions of the Usurious Loans Act are being applied in some cases, and in all cases where interest is found to be excessive or penal, interest is being reduced to 18 per cent.

District Munsif's Court, Chicacole.—In three suits 15 per cent compound interest is reduced to 12 per cent simple interest, 18 per cent compound interest to 12 per cent simple interest, and 60 per cent compound interest to 12 per cent simple interest.

East Godavari—District Munsif's Court, Razole.

Year.	Number of cases dealt with under the Usurious Loans Act.	Interest claimed. Per cent.	Interest allowed. Per cent.
1930	1	15	6
"	1	28½	6
1931	2	37½	25
"	6	37½	24
"	2	37½	18½
"	3	37½	6
"	1	27½	24
"	1	30	6
1932	26	37½	24
"	2	37½	18½
"	3	28½	24
"	2	45	22½
"	1	30½	24
"	1	31½	24
"	1	25	18½
"	1	27½	24
1933	26	37½	24
"	1	22½	12
"	3	28½	24
"	1	37½	18½
"	1	30	24
1934	1	67½	12

District Munsif's Court, Peddapuram.—Two hundred and twenty-one cases in which the rate of interest was cut down.

District Munsif's Court, Amalapuram.—Two hundred and sixty-three cases in which the rate of interest was cut down.

KISTNA.			
Year.	Number of cases dealt with under the Usurious Loans Act.	Interest claimed. Per cent.	Interest allowed. Per cent.
1930	2	22½	12
1931	8	22½	12
"	1	12½	
"	3	16½	
1932	3	22½	
"	3	12½	
"	1	12	6
"	15	12	(compound interest) 12 (Simple interest)
1933	28	12	(compound interest) 12 (Simple interest)
1934	119	12	(compound interest) 12 (Simple interest)
"	4	12½	(compound interest) 12½ (Simple interest)

Guntur—Sub-Court, Tenali.—One hundred and eighty-three cases in 1930–1934 where the rate of interest allowed ranges from 6 to 12 per cent.

District Munsif's Court, Guntur.—In 23 cases interest was reduced from 45 to 30 per cent.

In eight cases interest reduced from 37½ to 30 per cent.
Do. 30 to 15 do.
Do. 45 to 30 do.
Do. 75 to 24 do.

District Munsif's Court, Repalle.—Interest was disallowed in 61 cases and allowed at 12 per cent in six cases. In 161 suits interest was disallowed. In 28 cases, the amount allowed was less than that claimed.

District Munsif's Court, Narasaraopet.—Wherever interest was found penal, it was disallowed. Only in *ex parte* suits, the contract rate was allowed till date of plaint and interest at 6 per cent allowed thereafter.

Nellore—District Munsif's Court, Kavali.—In 96 cases interest was reduced from 24 and 37½ per cent to 12 per cent.

Cuddapah.	
1930	29 cases reduced to 12 per cent
1931	2 cases reduced to 12 per cent. 1 case 19 per cent disallowed.
1932	7 cases reduced to 12 per cent.
1933	5 cases allowed 12 per cent.
1934	6 cases allowed 12 per cent.

Kurnool—District Munsif's Court, Nandyal.—1930–34—90 cases—Interest cut down to 12 per cent.

District Munsif's Court, Markapur.—1930–34—783 cases—Interest was reduced to 6 per cent.

Chittoor.—Prior to 1931, 6 per cent was awarded. In 1931 and 1932, 126 cases were awarded interest at 12 per cent. The original claim was from 18 to 36 per cent. In 1933–34, 261 cases were awarded at 6 per cent as against claims for 12 to 36 per cent.

"The number of cases would be much greater, were it not that valuers know what rates of interest the court is likely to allow and usually limit them accordingly."

North Arcot—1930-34.—In 33 cases the interest was cut down.

Coimbatore—1930-34.—In 687 cases interest has been cut down. It was reported that generally interest is allowed at 24 per cent per annum wherever the contract rate provides for a higher interest.

The Nilgiris—1930-34.—In 29 cases interest has been cut down. It is reported that generally interest is allowed at 24 per cent per annum wherever the contract rate provides for a higher interest.

South Arcot—District Munsif's Court, Chidambaram.—Generally interest is allowed at not more than 24 per cent per annum. In cases where interest is claimed in excess of 24 per cent, it is invariably reduced to 24 per cent per annum.

District Munsif's Court, Vriddhachalam.—The District Munsif states that the interest usually claimed by money-lenders has been 24 per cent to 36 per cent. His predecessor had fixed a maximum award of 30 per cent under the Usurious Loans Act. He also reports that he has reduced 30 per cent to 27 per cent. Cases of claim above 36 per cent have been very rare.

District Munsif's Court, Villupuram.—The practice in this court has been to award interest only at 25 per cent per annum whereas it is claimed at more than that rate.

District Munsif's Court, Tindivanam.—Generally the claim is for interest at 24 per cent and in many cases the claim is made only at 18 per cent.

District Munsif's Court, Kallakurichi.—

	Cases.	Per cent.	Allowed.	Per cent.
1930-34	21	36	Allowed.	24
	12	36	Do.	24
	10	36	Do.	24
	83	36	Do.	24
	72	36	Do.	12
	57	37½	Do.	24

Madura.—Interest was cut down in 61 cases in 1932-34. Interest at 24 per cent is generally allowed. It is reported that, though the bonds provide for higher interest, only 24 per cent per annum is claimed and allowed.

Ramnad—District Munsif's Court, Manamadurai.—Two hundred and thirty-four cases in 1930-34 were reduced from 18 to 37½ per cent to 6, 12 and 18 per cent.

Salem.—Usually interest is claimed at 24 per cent per annum. In many cases the parties themselves restrict their claim to 24 per cent though the stipulated rate is higher. Courts do not award more than 24 per cent and the percentage of cases where courts reduce the interest will be between 5 per cent to 15 per cent.

South Malabar.—In 46 cases between 1930-34 interest has been cut down.

It is at once obvious that a uniform procedure is not followed in all the courts. The number of cases, in which the Usurious Loans Act has been applied, forms a ridiculously low proportion of the total number of cases dealt with. The decisions, as to what is usury and what is not, seem fickle and uncertain and the rates of interest eventually allowed vary from 30 per cent to 6 per cent. I am compelled therefore to conclude that the decisions have not always been arrived at on definite principles of law, but somewhat perhaps according to the individual personality of the presiding judges. From the reports, I am led to believe that in cases, where the defendant does not appear and is therefore declared *ex parte*, the interest claimed is never questioned by court, however high it might be. It is an established fact that such defendants, being hopelessly poor and dependant, seldom contest the claims of their rich and powerful creditors, who invariably engage good lawyers to represent them. I am led to believe further that the amount of principal claimed and recorded in pro-notes or registered documents is never questioned by the courts in any suit, although it is well-known that the borrower very often does not get the amount recorded in the documents. The worst of it is that interest is calculated on fictitiously recorded principal amounts, thus enhancing the rates of interest to an enormous extent.

Part II.

REMEDIES FOR AGRICULTURAL INDEBTEDNESS.

CHAPTER VI—LEGISLATIVE REMEDIES.

52. *Agriculture as an industry.*—I have heard it often said that India is not an industrial but an agricultural country. The correct way of putting it, however, seems to be that India is a country whose principal industry is agriculture. Agriculture should be regarded as much an industry as ship-building, or the manufacture of motor cars. The difference lies only in their relative importance to the country. Agriculture provides not only food for the people, but also the bulk of their revenues to Local Governments. The Government and the people therefore are equally and specially interested in the welfare of the industry of agriculture. The first essential of a sound industry is that it should be able to market its wares at a price which will ensure to its workers a reasonable wage and to its shareholders a proper return. The periodic trade cycles, which follow each other, upset world prices of most commodities, including the prices of food crops. No amount of manipulation of tariffs can completely eliminate price fluctuations caused by such world-wide trade cycles. But the prices of food crops in India can be stabilised to a greater extent than the prices of other commodities because India herself provides most of the market for such; and there is really not much necessity, as matters stand at present, to import food crops from abroad. Any

deficiency in the Indian supply to meet the Indian demand can easily be made good by increasing the area under cultivation of food crops (for instance, the new area under the Cauvery-Mettur project is ready to hand) and by adopting improved methods of cultivation. But both these most desirable forms of expansion want a strong stimulus and they are not encouraged by low and constantly fluctuating prices. I submit that one of the most important reasons why prices of food crops especially rice, have fallen so low in the last few years is because foreign rice and paddy have been allowed to be dumped into this country unchecked. The first essential to make the rather tottering industry of agriculture in India a sounder and better concern is for the Government to *stabilise prices as far as possible by all methods in their power, especially by erecting an effective tariff barrier against the import of grains from abroad.*

No industry can hope to remain solvent, if it borrows indefinitely at rates which are much higher than the returns on invested capital. It is admitted on all sides that the return from the land, on which staple food crops are grown, varies from 2 to 5 per cent in a normal year and seldom exceeds 6 per cent even in a good year. Agriculture in India is mainly a food-producing agency, the proportion of commercial to food crops being very low indeed. It must not be forgotten that the vicissitudes of season are such that out of every five years at least one year is a bad one. Under these circumstances, to borrow indefinitely at rates exceeding even 6 per cent per annum cannot but end in the bankruptcy of the agricultural industry. *It is obvious therefore that lending to the average agriculturist in India at rates, which exceed 6 per cent simple interest per annum, must be regarded as usurious, whoever the creditor may be.* Loans taken by agriculturists at higher rates than 6 per cent simple interest cannot normally be expected to be repaid from the income from the land, and to be discharged eventually must end in the passing of the land into the hands of the creditor. It is this alarming tendency that we now perceive. If the agriculturist is to be saved, the bulk of his standing debt, at rates of interest ranging usually from 9 to 24 per cent and often rising to even 36 per cent, must be paid off by some financing agencies (like Government or co-operative societies or land mortgage banks), who at the same time will give the debtor-agriculturists every opportunity of repaying from their income, by charging interest at as low rates as possible and by collecting in easy instalments spread over a long period of years.

53. *A typical example of debt.*—Let us suppose an agriculturist held 6 acres of wet land, which were worth Rs. 6,000 in 1920. He borrowed early in 1922 on pro-note a sum of Rs. 1,000 from a ryot money-lender. The pro-note recited Rs. 1,000 as principal to be repaid in three years at 18 per cent interest per annum, the interest to be paid annually.

Actually, the creditor charged only 12 per cent interest if paid regularly, 18 per cent being the penal rate entered in the bond and intended primarily for evidence in court. That penal rates of 24 per cent and 36 per cent are quite common must not be forgotten. The borrower was paid in cash only Rs. 880, Rs. 120 being deducted in advance as interest for a period of one year. Interest however was calculated on Rs. 1,000. Prices being steady and high, the borrower was able to pay annual interest till 1928. He therefore paid Rs. 720 in the shape of interest. The note was renewed twice for Rs. 1,000, once in 1925 and once in 1928, partly perhaps because the borrower was unable to repay principal and largely because the creditor not only did not press for principal but actually discouraged the borrower from repaying it. The depression commenced in 1928 and the farmer then found himself unable to repay even interest. The penal rate of 18 per cent therefore came into force and the note was renewed in 1931 for Rs. 1,540 (Rs. 1,000 being original principal and Rs. 540 being interest for three years at 18 per cent per annum); The debt mounted in 1934 to Rs. 2,370 (Rs. 1,540 being principal and Rs. 830 being interest on this for three years at 18 per cent per annum). The note was renewed for this sum in 1934. The creditor by this time was getting scared. So, after a little while, he took the case to court and claimed a sum of Rs. 2,370 as principal. The debtor did not contest this claim. He knew that he would gain nothing by contesting the claim. He was almost certain to lose his case. His expenses would be enormous, as he would have to engage a lawyer and go up and down to court for the numerous hearings spread over a year or two perhaps. So he wisely remained at home and allowed himself to be declared *ex parte*. The court, going upon documentary evidence, decreed for plaintiff a sum of Rs. 2,370 as principal and perhaps over a hundred rupees as costs and interest. The total value of the decree came therefore to Rs. 2,500. The defendant had no money. He only had his land and a thatched cottage. These were put to court sale. The land, which was worth Rs. 6,000 in 1921, could not fetch even Rs. 3,000 in 1934. There were no bidders. The plaintiff eventually bought in all the land, as well as the cottage, in settlement of the decree. In this way the debt was cleared by recourse to civil court. The defendant was rendered a landless and homeless pauper. He had to become a labourer or a tenant. In either case, his future outlook was miserable. He worked listlessly thereafter and eked out a miserable livelihood. The land he cultivated on lease became neglected. The plaintiff's landed property was already enormous and he certainly did not want more land, but had been forced to take up 6 acres of wet land and a cottage. The land had to be leased out or allowed to remain waste. Even if leased out, the yield could never be expected to be what it was when it had been cultivated by its previous owner, the small owner-cultivator.

Hence, for the settlement in 1934 of a loan of Rs. 880 in 1922, the farmer lost all his land worth Rs. 6,000 in 1922. He also paid Rs. 720 in interest and lost his house. This is what is happening every day now in hundreds of cases taken to civil courts.

54. *The need for scaling down debt.*—The present agricultural debt in the province is about Rs. 200 crores, not including petty loans and loans in kind. It is mounting rapidly by the accumulation of high rates of interest, in spite of the fact that much land is passing from debtor to creditor in settlement of some of the debts. The total landed assets are now worth only five times the standing debt. The need is great therefore for the scaling down of agricultural debt. The advantages to the debtor agriculturists are obvious. Such a scaling down will be of equal benefit to creditors, provided after the scaled down amount is mutually agreed upon, the creditor is paid off in money the sums decreed. The creditor is finding it increasingly difficult and expensive to draw in his loans, and his best efforts are only bringing him in more land which he really does not want and which he does not know what to do with. Even, if he is given formal possession of the land, he often finds it almost impossible to enter upon and exploit it owing to the determined opposition of the previous owner and his friends. He will welcome payment in money, even if he has to accept about half his legal claim. But, if he is going to agree voluntarily to a scaling down of the debts due to him, he will quite rightly insist on payment only in money and certainly not in land. So long as conciliation is voluntary, it cannot scare off future credit to any marked extent. On the contrary, it will perhaps encourage future lending.

55. *The need for debt conciliation boards.*—The next question for consideration is the kind of tribunal, which will best discharge the responsible and onerous duties of conciliation between lender and borrower. Civil courts are out of the question. They have not the time to go carefully into the histories of the hundreds of thousands of cases that will have to be conciliated. The cost of civil litigation is prohibitive and the delays excessive. The best course is to provide for the creation of debt conciliation boards by legislation. Most of the other provinces and the progressive States are of the same opinion. The Bill of M.R.Ry. Diwan Bahadur T. A. Ramalingam Chettiyar before the Madras Legislative Council has this object in view.

56. *Public opinion on the proposed legislation.*—I took the opinion of selected members of the public on this subject by means of a questionnaire and had talks with many people about it during my tour. District Judges were also consulted. The members of the Judiciary as well as of the Bar are almost unanimous in opposing the proposed legislation. Their main objection is that such legislation will merely duplicate the machinery for the legal settlement of debts, without conferring any extra benefits on the debtor or

the creditor. While some admit the laws delays, the great cost of civil litigation and the inadequacy of the Usurious Loans Act and relevant portions of other legal enactments, almost every one of them believes that civil courts are still the best tribunals for the settlement of debt, provided some necessary changes are made in the laws now in force. From their replies I am led to believe that many people have only a vague and uncertain idea of what exactly is meant by debt conciliation. The peasant population is almost unanimously in favour of the proposed legislation. Those who fear its introduction do so mainly because they think such legislation will serve to frighten away future credit. Among money-lenders, some favour the move and others do not. As a whole, however, the majority of the people, whom I consulted, are in favour of debt conciliation boards. Those in favour of experimenting with debt conciliation boards unanimously urge that, if boards are to be set up, they should deal with all the debts of agriculturists and should not be limited only to debts on land. I quite agree with this view. As regards the opposition by members of the public and by the Bench and the Bar, I feel that some of it is due perhaps to a lack of knowledge of the present plight of the agriculturist and of what debt conciliation really means. It would indeed be interesting to see what views will be offered after this report is published and opinions are invited thereon. Such legislation will undoubtedly curtail the work of civil courts. One of the principal objects of debt conciliation boards is to reduce the costs involved in a settlement of debts. The principal method is expressly to exclude legal practitioners from appearing before such boards. But the real opposition arises out of a genuine concern that the new scheme is unworkable. The following are the main reasons adduced against the creation of debt conciliation boards:—

(i) The creation of such boards, presumably composed of honorary workers, will lead to greater corruption, faction and injustice than at present; for few honorary workers are available, who can do their onerous duties with that consistently dispassionate and high sense of justice that is required. Influential money-lenders will somehow be able to exert undue influence over these conciliators. The difficulties in the election or selection of proper members for such boards are therefore insuperable.

(ii) Mere voluntary conciliation is of no use. Creditors will never agree to the scaling down of their debts to the extent really necessary for the benefit of debtors. If such boards are created at all, they should be armed with powers to compel the parties to accept their decisions.

(iii) Even assuming that conciliation is practicable and boards have succeeded in passing decrees based upon mutual agreement of the parties, the difficulties of executing the decrees in these hard times will speedily bring the work of such boards to a standstill.

(iv) Conciliation boards will surely frighten off future credit and curtail the facilities that now exist for borrowing; such shortening of credit will result more in hardship than in advantage to the agriculturists, who cannot exist without credit.

57. *The extent and nature of private conciliation at present in force.*—The replies received to the question, “whether conciliation in the matter of discharge of debts is now being restored to and, if so, to what extent?”, are vague and indefinite. The general impression is that conciliation is being resorted to, to some extent, but not systematically or on a large scale. Debtors are certainly appealing privately to their creditors to reduce both principal and interest on the score that the depression has materially reduced land values and prices of produce. In some cases, such appeals seem to have borne fruit and the creditor has reduced his claim. I am told, that influential gentlemen and panchayats are sometimes approached by debtors and creditors for an impartial arbitration and such has resulted in some scaling down of debt. But, private conciliation, I submit, irregular and infrequent as it is, cannot possibly bring about the good results that may be expected from debt conciliation boards appointed by legislation and vested with authority. The main objection to private conciliation is that the debtor has no money to offer. He can only offer his land to the creditor.

58. *Compulsion versus mutual agreement.*—There has been much discussion in other provinces and in the Indian States as to whether conciliation boards should or should not be vested with the power to compel parties to accept their decisions. Reference has repeatedly been made in this report to the fact that the agriculturist, being poor and always in need of help, must be financed by some agency or another for at least the legitimate expenses of cultivation. It will take some time to organize and expand the co-operative movement sufficiently enough for it to be able to shoulder the burden of supplying the peasant population with credit for productive purposes. At present only 6 per cent of the total debt has been advanced by co-operative societies. In the meanwhile, the agriculturist wants credit and he can get most of it only from the money-lender. The latter therefore is very necessary. It behoves us to avoid all legislation that will frighten away money-lenders. The legislation we contemplate should not in any way even suggest a repudiation of the legal, though often immoral, claims of the money-lender. Rather should we aim at legislation, which will persuade the money-lender by wise counsel to forego voluntarily a portion of his legal claim. He should be compelled in future to refrain from charging usurious rates of interest and to be business-like and above-board in his methods. But compulsion should not extend further. No doubt, the present position of the agriculturist-debtor is alarming and his great burden of

debt has to be speedily lifted from his shoulders. In spite of this, however, to invest debt conciliation boards with powers to compel creditors to scale down principal and interest, will lead to incalculable harm to the very classes whom we are out save. I would urge therefore that there should be no compulsory debt conciliation, at least for the present, but that the working of the machinery for voluntary conciliation, which is to be created, be carefully watched for some time and that, only if this machinery fails to afford the relief that it is intended for, compulsion should be applied as a very last resort.

59. *Mr. Ramalingam Chettiyar's Debt Conciliation Bill.*—It is necessary now to take up the important features of Mr. T. A. Ramalingam Chettiyar's Debt Conciliation Bill, which has been held up from going before the Select Committee pending my report.

Clause 1.—No remarks.

Clause 2.—I would say that all agriculturist debtors with debts above Rs. 100 and below Rs. 10,000 should be included. By fixing the minimum at Rs. 150, agricultural labourers and tenants-at-will are largely excluded. I am not for excluding these classes of agriculturists. After all, labourers form 28 per cent of the agricultural population of this province, and tenants-at-will are by no means scarce. While the Central Provinces have excluded labourers and tenants-at-will from the operation of their Act, the Punjab has included them in its proposed legislation. The argument for exclusion seems to be that these classes have little or no security to offer, and therefore the process of recovery from them will be difficult if not impossible. I submit that the questions, whether a particular debtor is inextricably involved or not, whether he can be saved or not, whether he is worth saving or not, and so on, cannot be answered off-hand. It is dangerous to hazard any guess as to relative proportions. Each individual case has to be examined carefully upon its own merits by the board and only then can such questions be answered.

Let us suppose a farm labourer or tenant-at-will owes Rs. 100 (principal plus interest) to a money-lender. He has got to repay this sum or remain for ever in debt. Is it not greatly to his advantage to apply to the conciliation board and have his debt scaled down, say to Rs. 50? How can payment be enforced from him? The labourer is better off than many other classes of agriculturists. He and his wife and his children all work for wages. Often, by borrowing they are bound by the creditor hand and foot to his service for years as farm-servants. They are unable to free themselves from virtual slavery, in which they are not paid in proportion to the work turned out by them. If they are permitted to bring their cases to the conciliation boards, I believe the system of service bondage to creditors will be broken. A labourer's family can easily repay Rs. 50 in easy instalments, in say two or three years or even a shorter period. Even

if, when cases are conciliated, the creditor refuses to accept such terms of repayment, a co-operative society may be able to lend a labourer Rs. 50 on personal or joint security. If all such contingencies fail, the case may be rejected, but will have served its purpose in bringing the undesirable methods of some creditors into public view. I have no doubt that in hundreds of such cases the boards will find that the labourer has actually discharged his debt by service, sometimes many times over. The board then after an enquiry can give the labourer its findings in the form of a certificate, which can be used, should the creditor venture into a court of law. It is the absence of a cheap, honest, sympathetic and easily accessible tribunal which keeps the ignorant labourers under bondage to his creditors. What applies to labourers applies almost equally to tenants-at-will, who are often also labourers.

It may now be argued that no minimum limit of debt need be prescribed. If a minimum is not prescribed, I am afraid applications to debt conciliation boards will be too many to be dealt with. Hence my limit of Rs. 100. As regards the maximum of Rs. 10,000, adopted or proposed by many Provinces and States, I submit that debts above Rs. 10,000 are not common among agriculturists. Those zamindars and very big landholders, who have bigger debts, cannot hope for redress through a debt conciliation board. Neither the Government nor co-operative societies nor land mortgage banks can normally pay such debts, even if scaled down. Applications for conciliation of debts over Rs. 10,000 will only take up much time with very little results. Mr. Ramalingam Chettiyar's maximum limit of Rs. 25,000 in clause 4 may therefore be reduced to Rs. 10,000, with the proviso that Government may prescribe a larger amount if necessary.

Clause 3.—The Bill states that the local Government shall appoint the members of the board. I rather doubt if Mr. Chettiyar intends that such members should be paid servants of Government. No doubt this would be best; for, unless the members command the implicit confidence of all members of the community, there will be no use in having the boards at all. The boards will have to do their work without fear or favour and the slightest partiality shown will ruin their reputation and usefulness. The members require to be unsparing in their labours, and wise and sympathetic in their dealing. They should be capable, by their character, status and conduct, of winning the trust and goodwill of both parties. Such fine material is rare in any country and it will be difficult indeed to find good men willing to devote most of their time to such work without remuneration. Unfortunately, I fear it will not be possible for the Government to pay them, because the number of boards required effectively to cope with the thousands of applications that will flow in will not be less than about five to ten on the average for a

district. A single board for a district will not serve the purpose. The parties cannot be expected to come from all parts of the district to a single centre. The larger the number of boards, the more the chances of success. The payment of regular remuneration to members being manifestly impossible, except perhaps in the way of bonuses from the receipts, how are members to be appointed? There are two alternatives, election or nomination. Those whom I consulted were almost unanimously opposed to the election method. They stated that the numerous elections at present, from panchayats upwards, had done enough damage in wasting money and creating faction. If election is resorted to, rich and influential money-lenders are almost certain to get their nominees into the boards. The only course left is nomination. I venture to suggest that, in selecting the *personnel* of boards by nomination, the most scrupulous care should be taken to choose the very best men possible—not only men of sterling character, but also men of experience and status who will command respect. It may be that in certain areas such men will not be available. In that case, an officer of Government may be deputed to do the duties of a board. Hence, on the lines of the proposed legislation in Bengal, I suggest the insertion of an additional sub-clause as follows: "The local Government shall have power to appoint an officer to exercise all or any of the powers conferred under this Act on a board, as may be determined and notified by the local Government." Such a provision will provide for the continuance of the duties of a board, even after it has been dissolved for some reason or other. I submit that, after these boards have been started, District Collectors should exercise a close supervision over them by periodic inspections and by reviewing monthly returns.

Clause 4.—I have already stated that boards for the present at least ought not normally to have jurisdiction over debts exceeding Rs. 10,000. Clause 4 provides that proceedings should commence with the application of a debtor or creditor to the board itself. This is as it should be. The recommendation of the Agriculturists' Relief Committee in Mysore, that applications in the first instance should be made before civil courts, does not strike me as very desirable. The main objects of debt conciliation boards are speed and cheapness. To insist that applications should in the first instance be made before civil courts will only lead to unnecessary delays, without any corresponding advantages.

Clauses 5 to 11.—In civil courts, the histories of cases are not often gone into in detail for the following reasons:—

(a) The defendants more often than not do not appear and are declared *ex parte*.

(b) The Evidence Act precludes civil courts to a great extent from going behind documentary evidence. It is well-known that the documentary evidence—pro-notes, bonds, mortgage deeds and the like—in cases relating to debt does not often represent the true case.

The principal is often not the loan actually paid; repayments are not noted in a regular and business-like way; no receipts are given; the interest actually charged is not always that recorded; no separate accounts are maintained for principal and interest and so on. The primary duty of a debt conciliation board is to go carefully into the history of every case and only then can it be equipped with the information necessary to effect a suitable compromise. If the board is bound to accept the facts recorded in documents, its activities and usefulness will be seriously curtailed. It is for this reason that I venture to suggest the insertion of the following clause, already adopted in the Bhavanagar State: "The board shall, notwithstanding anything contained in the Evidence Act or in any other law in force for the time being, have power, in order to inquire into and determine the real nature of any transaction between debtor and creditor, to admit evidence of any oral agreement or statement pertaining to such transaction, even though the transaction has been the subject of a written agreement." Such a clause may, at the first glance, appear startling and revolutionary; but none the less it is very necessary.

I am in entire agreement with the recommendation of the Agriculturists' Relief Committee in Mysore that debt conciliation boards should be guided by certain definite principles in arriving at the amount for which debts should be compounded. The Committee suggests that the following aspects should be considered by the boards in arriving at a decision and I quite agree with it, though the list may not be exhaustive:—

- (i) The amount of consideration actually received;
- (ii) the reasonableness or otherwise of the rates of interest contracted for;
- (iii) the amount of interest that has been allowed to accumulate;
- (iv) onerous conditions, if any, that have been complied with in the grant of loans; and
- (v) the repaying capacity of the debtor.

To these I would add the following:—

- (vi) Whether at any time the creditor was offered settlement of the debt in full or part and the offer was refused.
- (vii) The difference in value of the debtor's property and of staple food crops between the time when the debt was incurred and the time of settlement by the board.

I have been repeatedly told that before the depression and in its early years creditors were most unwilling to receive repayments of debts. They preferred them to accumulate. It is only now that they are anxious to draw in their loans. If a debtor did offer the creditor full or part repayment and the creditor refused or protested that there was no hurry about repayment, he has only himself to blame for the loan still remaining undischarged. In such cases, where there is definite evidence to

prove such offers and refusals, I suggest that the boards be given full powers to decree the debt as it stood when the offer was made and refused, disallowing all further accumulations.

The depression has brought down the value of land and prices of commodities to half what they were before. The value of money has doubled itself. If a creditor lent Rs. 1,000 in 1927, he has no doubt a legal claim to Rs. 1,000 plus interest now. But with Rs. 1,000 he can buy twice as much land or commodities, as he could have done in 1927. This consideration should be prominent before the boards when attempting to conciliate agricultural debt.

Clause 12.—No remarks.

Clause 13.—Those, who oppose this sort of legislation, express grave misgivings that the decrees of debt conciliation boards will prove infructuous in execution. From the little information that can be gathered about the working of the Central Provinces Debt Conciliation Act, No. II of 1933, we find that debtors and creditors have freely resorted to the boards appointed under the Act. The execution of the decrees passed by the board has not, I imagine, met with equal success. The main obstacle to such execution is the lack of ready money. I rather doubt if the Government will be willing to undertake the immense task of recovering the decree amounts from debtors as arrears of land revenue. That the collection of the ordinary land revenue is becoming increasingly difficult, as a result of the slump, is well known. Not only has much land to be attached and brought to sale, but a considerable amount is actually sold. If the land revenue demand is multiplied several times over, by adding the amounts not paid by debtors under the agreements, I am afraid, recovery by the Revenue department will become impossible. The bill further provides that, if the Collector is unable to recover the sums due from debtors, they shall be recoverable as if a decree of civil court had been passed. Such a procedure also strikes me as most undesirable, except as a last resort; for it will also lead to the transfer of much land from debtor to creditor.

My suggestions are—

Conciliation can be started on the understanding that the debtor pays the creditor the sum settled upon, either immediately or in instalments spread over a convenient period. If the creditor does not agree to conciliation on these conditions, the Government may lend as *takavi* loans to the debtors the amounts agreed upon. The money can be paid direct to the creditors and Government can become the creditors. Of course, such a course is only possible if the debtor has sufficient security to offer. Sums up to about Rs. 500 in each case may be found in this way. Payment of bigger settled debts should be undertaken by co-operative societies and land mortgage banks. If the Government find it impossible to lend out even small sums as *takavi* loans, I suggest that payment of all settled debts where adequate security is forthcoming be undertaken

by the co-operative societies and land mortgage banks. Such a course is possible only by a great expansion of these institutions. This aspect of the question, together with suggestions for strengthening and consolidating the co-operative movement, will be taken up again later.

When a conciliation board has succeeded in affecting a compromise, it may furnish the debtor with a certificate clearly stating the decree amount and the security at the command of the debtor. The board can further state in the certificate its opinion that the debt can be paid by the Government or by a co-operative society or by a land mortgage bank according to the circumstances. This certificate will enable the debtor to apply for a loan to the Government, a co-operative society or a land mortgage bank as the case may be.

In the case of persons whose immovable assets do not afford the margin of security required by the Government, by co-operative societies or by land mortgage banks, the only relief that can be given to the solvent (those with adequate earning capacity) is to permit them to pay in instalments spread over fairly long periods, if a co-operative society cannot be persuaded to lend on personal or joint security. This is possible only if creditors agree. Such debtors can be provided with certificates of their debt obligations. If they fail to abide by the terms of their agreements and make default in payment, the machinery of the land revenue department and of civil courts can be invoked as a last resort to execute the decrees.

There will still remain a class of debtors, whose assets and earning capacity cannot possibly serve to clear off even their conciliated debts. Such agriculturists, I submit, should be given a chance of starting afresh in life, instead of being kept in perpetual bondage of steadily mounting debt. Their only chance of being saved is for them to surrender all their assets to their creditors and to become adjudged, as insolvents. I agree with the Mysore Committee that this method is the only chance they have of getting out of their difficulties. I venture to suggest that the application for insolvency on behalf of such debtors be made by the debt conciliation boards themselves. I suggest that, in such cases, the limit of Rs. 500, found in section 9 (1) of the Provincial Insolvency Act V of 1920, be considerably reduced and the courts having jurisdiction be empowered to deal with the debtor's estate in a summary manner, even though the value of the property may exceed Rs. 500. These provisions may be enacted as amendments to Madras Act V of 1920.

Clause 14.—No remarks.

Clause 15.—This clause provides that, if the creditor refuses to come to an agreeable settlement, the board may, if it is of opinion that the debtor has made the creditor a fair and reasonable offer, grant the debtor a certificate. I suggest that this clause be mandatory and that the word *shall* be substituted for the word *may*.

I have no further remarks to offer on the Bill.

Such legislation is an experimental measure and it is difficult to predict what fruit it will bear. One province has started it and nearly all the others are going to begin. In the Bhavanagar State, a scheme of more or less compulsory debt conciliation has been carried out and a debt of about Rs. 86 lakhs is reported to have been scaled down to Rs. 20 lakhs and the whole amount paid off by the State Government. In the Central Provinces, six conciliation boards are reported to be working and, till August 1934, they are reported to have reduced debts amounting to Rs. 28 lakhs to Rs. 16 lakhs. Mr. Ramalingam Chettiyar himself states as regards his Bill: "I do not propose any great panacea for saving the ryot. I do not suggest that all the ryots, the moment the Bill is passed, will be free from debts or will have a clean slate or their position will be improved very much. The scope of the Bill is very modest. It only brings into existence a machinery to bring together the creditor and the debtor and make them agree and adjust their debts. It does not propose to do anything more." The time is ripe I believe for such a measure. The creditor is just as anxious to come to a settlement as the debtor. Both will welcome such a measure, provided the integrity of conciliation boards is of a high and unswerving standard. Such a measure will save the parties both money and time. It will engender mutual good will and understanding, instead of the bad feeling created by civil litigation. It gives the co-operative movement and the land mortgage banks a splendid opportunity to get into closer touch with the masses and of helping them substantially.

I am not in a position to estimate even roughly the proportion of agriculturists who are solvent and the proportion of those who are insolvent. I cannot say how many can be saved and how many cannot be saved without resort to drastic methods. These details can only be found out as the cases come up one by one. The measure for debt conciliation is well worth trying. There will be no lack of applications and I have no doubt that many creditors will be ready and willing to meet debtors half-way. If only the money can be found to pay off the conciliated debts of at least the really solvent ryots, one can with certainty predict that the measure will be a success. It cannot do much harm and it aims at helping, to some extent at least, the small and medium landholders as well as tenants and labourers. These form the bulk of the agriculturist population and incidentally of the total population in this province.

60. *Legislation restricting the alienation of land.*—Many of the replies received by me in response to my questionnaire are full of this subject. Representations are to the effect, that—

(i) the small and medium owner-cultivators are rapidly losing their holdings and hence,

(ii) there should be a law preventing appropriation of such by non-agriculturists.

(iii) even if such a law is impracticable, every agriculturist should be permitted by law to retain at least some land sufficient to form an economic holding, such a minimum amount being inalienable and therefore exempt from attachment or sale.

In this province, excepting the Agency tracts, no restriction is imposed upon the alienability of ryotwari land. I am emphatically opposed to a Land Alienation Act for Madras, for the following reasons:—

(i) There are no distinct tribes in this province, outside the Agency, who can be termed *agriculturists* as opposed to *non-agriculturists*.

(ii) It will immediately be followed by a marked depression in the value of land.

(iii) The majority of agriculturists in this province are landless, or have very small holdings which cannot be classed as economic holdings. Such an Act is not going to give them more land.

(iv) It will make consolidation of holdings almost impossible.

(v) It will hamper agricultural progress by weakening those it seeks to protect.

(vi) It must be admitted that there are many agriculturists, who have by their own fault forfeited the right to hold land. They have grossly neglected their holdings and squandered their profits and their borrowings on unproductive purposes. Nothing but good can come from the land passing from such incorrigibles to those who are better equipped by character and finance to cultivate such holdings properly.

I have been repeatedly told that the Punjab owes much of its prosperity to its Land Alienation Act. The conditions in the Punjab are different to those in our province. Besides, it is an open question whether the Punjab Act has been of real benefit to agriculturists in that province. Mr. Darling is in favour of excluding some tracts from its operation. I am told that there are many well-wishers of the agriculturists in the Punjab and there are even agriculturists themselves who are anxious for its repeal.

61. *Regulation of accounts.*—The Punjab Regulation of Accounts Act of 1931 was the first of its kind in British India. It “obliges all persons, whether money-lenders or shopkeepers, who advance loans in money or in kind at interest to keep an account for each debtor and to send him every six months a signed statement of the account, distinguishing between principal and interest and detailing all the loan transactions of the past six months. If a separate account is not maintained for a debtor, the creditor on suing him is liable to lose his interest, and will in any case not be awarded his costs.”

The measures for debt conciliation proposed in the previous chapter are not intended to drive away credit. They certainly will not drive away the honest money-lender. What

we want is systematised credit, operating in a business-like way and, for this, a Bill similar to the Punjab Regulation of Accounts Act of 1931 is necessary. A similar Act has recently received the assent of the Governor-General. It is Madras Act VII of 1935. I suggest that it should be brought prominently to the notice of the public at an early date, and that the attention of all Civil Judges should be drawn to its provisions. Section 3 provides that every creditor shall maintain regular accounts and shall give receipts to his clients for all repayments. I suggest that the creditor should be made to render a full and complete statement of accounts to each of his debtors once in six months showing the total interest and principal due separately and all the transactions relating to the loan which transpired in the previous six months. This provision is found in the Punjab Act. In the Madras Act, the creditor has to render a statement of accounts to his debtor, only if the latter asks for it in writing. This, I submit, is not enough. The lethargy and indifference of the average Indian peasant are notorious. Again in section 6 (1) of the Madras Act, I suggest an amendment to the effect that, if the court finds that a creditor has failed to maintain proper accounts, he will not only be refused his costs, but will also be disallowed interest from the date on which accounts ceased to be correctly maintained. In section 6 (2) of the Act, I suggest that the penalty for not giving a receipt or not furnishing a statement of accounts to the debtor should be loss not only of interest, but also of costs.

62. *Registration of money-lenders.*—I now come to a most important recommendation which I believe will be of the greatest importance and will lead to the great advantage of debtors and honest creditors—I mean the compulsory registration of money-lenders of all classes. I can think of no serious objection to such a measure, provided only those who make a regular business of money-lending are compelled to register themselves.

Such a measure will be welcomed by honest creditors, as it will drive out their undesirable rivals, the unscrupulous and dishonest lenders. Lawyers and members of the legal profession are compelled to register themselves. The operations of money-lenders are as extensive and far-reaching as the practice of law or of medicine. The money-lenders, who will object to compulsory registration, will be the undesirables, whose transactions cannot bear the light of day. It is all to the good that such be weeded out. I cannot see how this sort of registration can possibly be evaded. Provision should be made that no money-lender who has failed to register himself can claim costs or interest above 6 per cent in a court of law. If such penalties are found to be ineffective in practice, more rigorous ones may be imposed after some experience is gained.

If my recommendation finds favour, as I hope it will, the District Collector may be made the registering authority and a suitable

fee may be charged for registration and for annual renewal of licence. The Collector should be given powers to refuse the grant or renewal of licences; or to suspend them if he is satisfied that the money-lender (i) has not maintained regular accounts and passed receipts regularly as required under Madras Act No. VII of 1935, or (ii) has made an entry relating to a loan in any document, showing amount of the sum advanced to be in excess of that actually advanced, plus legitimate expenses incurred; or (iii) has charged compound interest with periods of rest which are less than three years.

63. *Jurisdiction of civil courts.*—The legislative remedies I have recommended do not, I submit, preclude a creditor seeking redress in a civil court of law. There is a strong feeling that the work of civil courts should be considerably speeded up. The law relating to debts can be improved with advantage. This is admitted by several District Judges. As one of them observes, "In my experience, the parties who agree to pay usurious rates do so willingly for the time being, and have to be protected like drunkards, drug addicts and prostitutes, in their own interests."

64. *The Usurious Loans Act X of 1918.*—I have attempted, in paragraph 51, to show from figures furnished by District Judges that the Usurious Loans Act is not being uniformly applied and is resorted to but rarely. The greatest diversity is noticed from court to court in the interest awarded by the application of this Act. No doubt some of the differences in the interest eventually awarded can be explained by the peculiarities of the facts elicited; but I submit that the Act does not lead to more regular results, chiefly because it is vague and also has not been brought prominently to the notice of all judges.

There has been great controversy as to whether law should fix the maximum interest, which a money-lender is permitted to charge an agriculturist. The chief objections to such a course are—

(i) the ease with which money-lenders can evade such enactments, and

(ii) the likelihood that, it will not only lead to greater resort being had to questionable practices, but that also legitimate credit may be frightened away. No doubt, as I have pointed out, the return from agriculture devoted to the raising of staple crops varies only from 2 to 6 per cent. But returns from special crops like sugarcane and cotton are normally higher. If at all the maximum interest is to be fixed, it should be pitched at a much higher rate than that which should be normally charged. While I am, therefore, definitely against the fixing by law of the maximum rate of interest, I am emphatically of opinion that agriculturists cannot possibly bear the strain of being financed at compound rates of interest. I would therefore urge that all compound interest on loans to agriculturists may be held

to be usurious and that courts should award only simple interest in such cases. A suitable amendment to the Usurious Loans Act to this effect is desirable. The following further minor amendments to section 3 of this Act are also recommended: for the word *and* in clause (a) of sub-section (1), the word *or* should be substituted; and the word *may* where it appears for the first time in sub-section (1) should be replaced by the word *shall*.

I am strongly in favour of a direction by the High Court of Judicature to all Civil Judges to use the Usurious Loans Act with greater regularity and precision. Such a direction may set out the position of agriculturists and of the agricultural industry and give specific instructions how effectively to apply the Act in order that this industry may not suffer. I would even suggest that such a direction may clearly indicate the maximum rates of interest that should be allowed under different circumstances. I trust that, if such a direction is issued, the maximum may be fixed with the greatest care, so as not to cripple the agricultural industry, or frighten away legitimate and reasonable credit by money-lenders. Such a direction may clearly lay down that the fact, that the defendant fails to appear and is declared *ex parte*, should not be a bar to the application of the Usurious Loans Act.

65. *Damdapat.*—I recommend the introduction of this ancient and equitable rule of Hindu law into this province. Provisions on the following lines may be enacted:—

(i) In any suit brought after the commencement of this Act against a debtor for the recovery of a loan borrowed before the commencement of this Act, no court shall grant a decree in satisfaction both of principal and interest for a larger sum than twice the amount which the court finds to have been due at the commencement of this Act.

(ii) In any suit brought against a debtor for the recovery of a loan borrowed after the commencement of this Act, no court shall pass a decree for a larger sum than twice the amount of the sum taken as principal.

These provisions follow those found in the Bill recently passed in the Punjab Legislative Council. The objects of this remedy may be summed up as follows:—

(i) It will prevent money-lenders from waiting years and years without demanding repayment, as many do at present with a view to appropriating all the property of their clients.

(ii) It will prevent borrowers and their descendants from remaining in false security without realizing their growing liabilities.

(iii) The "absurd spectacle of a creditor knocking away the entire property of an agriculturist for a portion of his debt and then applying for a warrant of arrest will largely disappear."

66. *Prevention of fraud.*—I suggest that the law should make provision to penalize the common practice among money-lenders of

taking a promissory note or other document for a larger sum than is actually lent. If such is found to the satisfaction of the court and the court is convinced that there was fraudulent intent, I suggest that the whole suit be dismissed with costs without any decree even in part. This will be a deterrent provision against such frauds. It will build up public opinion against such practices, even if it does not do anything else.

67. *The Code of Civil Procedure*.—I suggest amendments on the following lines to the Code of Civil Procedure and other relevant Acts:—

(i) Sub-clause (3), of rule 2, in order XXI, of the Code of Civil Procedure may be omitted.

(ii) In the direction by the High Court recommended by me as regards the Usurious Loans Act, the attention of Civil Judges may be drawn to rule 11 of order XX of the Code, and they may be advised to apply the rule with greater frequency and sympathy to agricultural debtors. I propose that, if the circumstances of the case permits, an agricultural debtor may be ordered to repay his loans in small instalments of not less than Rs. 20.

(iii) In no case should a mortgagor be entitled to more than the mortgaged property in full satisfaction of his entire dues, except costs.

(iv) Properties of sureties ought to be sold only after the properties of the principal debtor are exhausted. Sometimes, the money-lender, colluding with the principal, proceeds only against sureties, thus ruining these often overtrustful individuals. Such a rule will help to put down reckless lending.

(v) A decree-holder should not be permitted to purchase the property of the judgment-debtor, except for a reasonable value to be fixed by the court after due enquiry. The absence of such a provision too often leads to the decree-holder buying in the properties for far less than they are really worth.

If all the measures relating to civil courts I have recommended are adopted and disposals are quickened, there will be immense relief to the parties concerned, especially debtor agriculturists; and, I am sure, the honest creditor will welcome such provisions, as they do not unjustly or unduly curtail his rights.

68. *Civil Jail*.—I am not concerned with the numerous reasons for and against detention in civil jail. I would, however, strongly recommend the abolition of civil imprisonment for this one reason alone, that it will stop future wild and reckless lending without proper security. Money-lenders are free with their money to clients, who have neither the property nor the earning power to repay their debts, because they can always put the debtor into prison, thereby forcing his friends and relations to come to his rescue. Such wild lending must be put a stop to, both in the interests of borrowers as well as lenders.

CHAPTER VII—THE DEPARTMENTS OF AGRICULTURE AND INDUSTRIES AND THE CIVIL VETERINARY DEPARTMENT.

69. Relief from the burden of standing debt and the provision of cheap credit no doubt will help the ryot considerably and so are very essential. But these remedies cannot solve all his difficulties; hence, measures for increasing his profits and cutting down his expenses are equally if not more important. As a layman, I find it a difficult and delicate task to suggest remedies regarding the departments to which this and subsequent chapters are devoted. My general impressions and suggestions are respectfully offered for what they are worth, and I trust they will not be taken amiss as being irrelevant running comments on the working of departments of Government. I submit that the remedies and criticisms I offer as regards these departments are all of them quite relevant to this report and definitely fall within my terms of reference, as they are calculated to improve the economic position of the agriculturist and, therefore, to put him in a better position to repay his present debts and to avoid becoming indebted in the future.

70. *The department of Agriculture*.—This department has made great strides, especially in the last three years. It has helped many ryots to improve their methods of cultivation, adopt more paying crops and consequently increase their outturns and profits. The conservatism and obstinacy of the peasant population in adhering to their old crude ways are often enough difficult indeed to break through. I venture to suggest ways and means of achieving better results:—

(i) No amount of agricultural research can benefit the farmer unless the agencies for propaganda and demonstration are adequate. I submit that a single demonstrator for a taluk cannot possibly be enough. Hundreds of ryots have told me that they have never been approached by officers of the Agricultural department, and they are perfectly willing to try out new implements and methods, provided such are demonstrated to them as being within their means and of real benefit. There should be at least one demonstrator for each revenue firka and each demonstrator should have two to three *maistries* working under him. There are on an average, more than a hundred villages in a taluk. The present meagre staff cannot possibly be expected to get into adequate touch with these villages. Every taluk has about five to ten geographically natural centres where produce from surrounding villages is brought for marketing. These are the marketing centres, which should form the bases for agricultural education and help. There should be a depot at every centre with, if possible, a small farm of two or three acres.

(ii) In imparting agricultural knowledge, care should be taken not to antagonise the people. After all, in spite of his conservatism, the Indian farmer has the experience of centuries behind him, especially in the cultivation of staple food crops. Often

enough, it is poverty and not lack of enterprise, which compels him to adhere to his cheap and inadequate methods. Too often are demonstrators prone to forget this important fact and in consequence are inclined to preach the adoption of improvements which are not within the means of the small farmer. As an eminent economist rightly observes, "in connexion with agriculture, we must be careful of two things. First, we must not ostentatiously tell the native husbandmen to do things which they have been doing for centuries. Second, we must not tell them to do things which they can't do and have no means of doing." No amount of propaganda to introduce such expensive appliances as motor tractors will be of avail, as the ryot cannot afford them. It is folly to my mind to try and teach the Indian agriculturist his own trade in raising staple food crops by means of steam ploughs and the extensive use of expensive ammonia manures. These may be possible for paying industrial crops, but not for paddy, cholam or ragi. Lord Mayo, in 1870, realized the limit within which the Agricultural department should work with regard to the small landholder; he said: "I do not know what is precisely meant by ammoniac manure. If it means guano, superphosphate or any other artificial product of that kind, we might as well ask the people of India to manure their ground with champagne."

(iii) If it is not advisable to preach the adoption of expensive and over-scientific methods for staple food crops, it is yet most essential to impress upon the ryot the need to improve his cultivation by simple and comparatively inexpensive ways such as the substitution of the light iron plough (capable of being drawn by the ordinary cattle of this country) for the wooden instrument, the substitution of good strains of seed for bad and cheap seed, wider spacing in transplanting, the proper conservation of farmyard and leaf manure, scientific rotation of crops, the growing of more fodder and manure crops, the introduction of commercial crops, fruit and flower growing, and the like. Large-scale farming, I fear, is not a practical possibility in this country for the majority of agriculturists. Our efforts at improving cultivation should be specially directed to benefit the small farmer. The general complaint against the Agricultural department is that its officers are prone to talk above the heads of the average ryot. When demonstrators and others are appealed to for real practical help, such help is not often forthcoming. Too often are ryots advised to invest in ploughs, which the weak cattle can never draw and, when this is pointed out, they are advised to purchase expensive cattle like the Ongole breed. Demonstrators make no real efforts to get at the small owner cultivator. They are far too inclined to forget that small farmers form the real backbone of the agricultural industry.

Cattle manure, I am told, is getting scarcer. Much of it is wasted by being used as fuel and as plastering for floors and walls.

Agricultural education should be specially directed against such waste. A great stride will be made if a formula is evolved for the making of an all-round cheap manure by the cultivator on his farm. As Dr. Mukerjee says, "there are abundant supplies of waste organic matter such as paddy husk, groundnut husk, sugarcane trash, grasses of various kinds and many other substances and it may be possible to bring about a similar fermentation of such materials as has been accomplished at Rothamsted in the preparation of artificial farmyard manure. An important source of soil renewal, within the means of the cultivator in many parts of India, is a compost made from all kinds of vegetable matter, wood ashes and a certain amount of cowdung after the manner in vogue in China and Japan." The Indian is prejudiced against night-soil as manure. I venture to submit that determined education in this direction is very necessary. The loss of valuable manurial products from wastage of night-soil is immense.

(iv) The demand for improved strains of seed is practically inexhaustible. I suggest that early steps be taken to increase the supply of good seed substantially and make it available in abundance at every agricultural depot.

(v) It is unnecessary to stress the great importance of popularizing commercial crops. Special efforts, I submit, should be made to increase fruit-growing. The market for fruit even in India is almost inexhaustible and the possibilities of tapping world markets for graft fruit are immense. Mere propaganda is insufficient. Every depot should stock a good supply of suitable graft and ordinary fruit and flower plants. I visited the garden of an enterprising lawyer at Kumbakonam. He is specialising in grafting and budding fruit and flower plants. He tells me that he is not able to supply the demand of the public for such plants, so great is it.

(vi) The number of demonstration plots and of demonstrations are quite inadequate. Especially important is demonstration for the manufacture of such products as cream jaggery. I venture to suggest that ryots should be encouraged to offer their lands to the Agricultural department for demonstration purposes, by granting them for these plots a remission of fifty to hundred per cent in land revenue according to circumstances.

(vii) Early steps should be taken to increase the stock of cattle at the disposal of the department. More farms at convenient centres like the one at Hosur are needed. Special attention should be devoted to popularize scientific cattle breeding. The people should be encouraged to have the small stunted bulls, seen wandering about the countryside, castrated to prevent indiscriminate breeding. The system of supplying stud bulls for service is meeting with much success and the supply may with advantage be greatly increased. I suggest that even more favourable terms be offered to those who undertake to maintain stud bulls for purposes of service. As far as possible, the department

may popularize goat and sheep rearing, which is a great source of subsidiary income to ryots, in spite of the fact that the Indian by temperament and training is largely vegetarian in his outlook. It is indeed a matter of deep regret that the number of sheep and goats is steadily decreasing in this presidency.

(viii) Two of the most profitable and yet inexpensive forms of subsidiary occupation are poultry and bee-keeping. The agricultural farms I visited are meeting with great success as regards the supply of eggs, and with quite appreciable results as regards the supply of bee-hives and swarms of bees. I suggest that every agricultural depot should have an adequate supply of good hatching eggs for poultry and bee-hives for sale and if possible a small stock of poultry and bee-swarms. A centrifugal hand-machine for extracting honey from the comb can be kept at each depot and employed for a small fee to extract the honey from combs brought in by ryots.

(ix) At present, the Agricultural department grants small *takkavi loans* for the purpose of agricultural implements alone. May I suggest that the work of granting such loans for all agricultural purposes, except relief of distress, be transferred from the Revenue department to the Agricultural department? The latter is specialized and ought to be better equipped to gauge the needs of ryots than the Revenue Department. I have already shown that *takkavi loans* form only one per cent of the total debt. There is scope for much expansion in Government aid. The following principles should be followed in granting loans for cultivation expenses and other productive purposes, either by the Government, or by co-operative societies:—

(a) *As far as possible, loans should be given in kind.* If they are required for seed, seed should be given; if for manure, manure; if for graft plants, plants; if for bulls, the bulls should be bought and given to the borrower; if for a well, the well can be had dug by the lending agency. By following this principle of giving loans as far as possible in kind, we can make reasonably certain that the loan is used strictly for productive purposes.

(b) Another principle to be followed in the grant of loans for cultivation expenses is to grant the loans in instalments and not to give the second or third instalment till it is made certain that the previous instalment has been used for the purpose for which it was taken.

(c) Finally, all loans for cultivation expenses should be short-term loans which should be collected in full at the next harvest or, if the crop fails, at the next one to that.

(x) The Agricultural department ought to pay as much attention to marketing as to the raising of crops. *As a general policy marketing ought to be clubbed with production and not with distribution.* At present, marketing is almost completely neglected. I suggest that every depot should be equipped with up-to-date marketing knowledge and should publish daily, or at least

weekly, price bulletins and other marketing information. (The ryot needs nothing so much as accurate marketing news. He wants to be educated and helped in selling his produce at the best price available to those who will give him the best prices. Much can be done by the department in the way of bringing producer and retail merchants, as well as consumers, into closer and more amicable relationship. Wherever demonstrators have been deputed to help and run co-operative loan and sale societies, the societies have thriven. The department can give real help to such societies especially on the selling side. A marketing officer is now touring the presidency and his report is eagerly awaited by the people. If a loan and sale society is started and properly run in every agricultural centre referred to under item (i), the prosperity of the former will be materially enhanced.

(xi) Finally, I would strongly urge the starting of agricultural associations composed of officials and suitable non-officials throughout the presidency. Such associations should devote themselves, not only to propaganda and education by staging exhibitions and demonstrations, but should form the basis of co-operative agricultural societies for collective farming.

71. *The Department of Industries.*—A careful student of economic conditions in India will, I believe, agree with me in deploring the attitude taken by some that a tropical country like India with its rich agricultural resources ought not to turn from the cultivation of the soil and enter into competition with industrial countries. The satisfaction of the most elementary physical necessities exhausts the bulk of the income from the land, leaving hardly any margin for health, education and recreation. Agricultural income per head is steadily falling with the rapid increase in population. The surplus population must seek a means of livelihood other than agriculture; and industrialization is a natural outlet for this "imperious economic necessity." Such industrialization is not likely to affect agriculture in any undesirable way.

It is indeed gratifying to see the progress made by the Department of Industries, in spite of the slump. An active and progressive policy of State aid to industries is most necessary. As is observed in the Montague-Chelmsford report, "on all grounds, a forward policy in industrial development is urgently called for; not merely to give India economic stability, but in order to satisfy the aspirations of her people, who desire to see her stand before the world as a well-poised, up-to-date country; in order to provide an outlet for the energies of her young men who are otherwise drawn exclusively to Government service or to a few overstocked professions; in order that money now lying unproductive may be applied to the benefit of the whole community; and in order that the too spectacular and literacy tendencies of thought may be bent to more practical ends."

I respectfully venture to offer the following suggestions, as regards the Department of Industries:

(i) When helping by loans or other aid the starting and running of factories, no consideration should weigh against the giving of full and free permission to exploit all waste products. For instance, only certain sugar factories are permitted to exploit waste products while some others have not been permitted to do so. I submit that there can be no sound economic defence for such differential treatment. Such a loss of good material cannot but be a hardship to the country.

(ii) The possibilities of foreign and home markets need to be carefully explored and outlets found for the absorption of articles manufactured in India, particularly in cottage industries. The appointment by the Government of an Agent in London for the sale of the products of Madras cottage industries is a welcome move and great progress can be achieved by the appointment of active agents in other countries also. South India is famous for many of its cottage industries, and works of art and utility will surely find a ready market in Europe and America if they are properly advertised and exhibited. If the demand is assured, supply will naturally follow, especially if the Government help these industries by technical training and monetary aid. There is much scope for expansion of those cottage industries, which are not likely to meet with competition from machine-made articles. Propaganda and education in this direction are necessary, and labourers and small farmers have to be got at by establishing centres of activity, which can with profit be made to coincide with the agricultural centres referred to in the previous paragraph. The present staff of inspectors and demonstrators is inadequate.

(iii) Cottage industries have to be protected from the predatory activities of middlemen, as agriculture has to be protected. The predicament of weavers is a standing example of the strangle-hold of the employer; to combat middlemen, the department of industries should collaborate actively and on a large scale with the co-operative movement, in the formation and running of co-operative enterprises, such as weaving societies.

(iv) As regards the engineering section of the department, the Government have very rightly laid down that the claims to departmental plants of agriculturists and small-scale industrialists should have precedence over other interests. The plant available for boring wells can well be greatly increased as can the number of boring inspectors. The stock of instruments should be distributed, so as to be easily available at convenient centres scattered throughout the presidency. Little result can be expected if the department waits for applications. Active propaganda and highly favourable terms are required to persuade the ryots to have more bore wells put down; this specially applies to districts which are susceptible to famine.

72. The Civil Veterinary department.

I have not many remarks to offer as regards this department. In spite of the depression and the recommendations of the Retrenchment Committee, I strongly recommend a substantial increase in the number of veterinary institutions and of touring posts. The present staff is quite inadequate to meet the needs, especially at the time of epidemics. Much avoidable expenditure has to be incurred by ryots in the purchase of cattle to replace those which have died owing to want of prompt and effective treatment. Unless veterinary aid is adequate, readily accessible and speedy, it cannot really benefit the rural areas.

When a case of contagious disease is reported from a village, it is essential for the veterinary staff to get there as quickly as possible. I would recommend that officers of this department should be given special travelling allowances with regard to mileage, etc. If bus fare only is allowed, an officer cannot usually get to a village before 10 or 11 a.m. when all the cattle are in the fields. All he can do then is to *advise* the villagers. To be of real use, the veterinary staff should be able to reach a village before 7 or 8 a.m. Only then can they *treat* sick cattle.

Finally, I would strongly recommend the opening of model dairies, not only at Madras, but also at other important centres.

CHAPTER VIII—THE CO-OPERATIVE MOVEMENT.

73. *Historical.*—The co-operative movement in India commenced with the Co-operative Credit Societies Act of 1904. That measure was incomplete and a second Act was passed in 1912. Several local acts came subsequently into force.

Great things were expected of the co-operative movement in India, on the analogy of its phenomenal success in Europe. It was hoped that co-operation would free the cultivator from the vicious system of credit from private money-lenders and emancipate him from the paralysing influences of ignorance, suspicion and fear, thus ultimately lifting the peasant on to a higher plane of culture and wealth. Mr. Wolff, who had much to do with the starting of the movement in India, observes in his *Peoples' banks*: "Throughout history there seems to have been a peculiar ban of failure attaching like a Pandora's curse, to those provident and charitable institutions which did not rest upon self-help."

The enthusiasm of the founders of the movement in India was unbounded. There followed from about 1917 to 1927 an era of expansion of the movement. Thousands of credit societies were registered, and money was lent out freely. The movement during these ten years was, however, perhaps marked by the following defects:—

(i) The expansion was much too rapid. The movement in its infancy had been encouraged to run, even before it had been taught to walk.

(ii) The people of India were too ignorant, uneducated and wanting in civic spirit to assimilate easily the real principles of co-operation.

(iii) A vigorous policy of de-officialization was adopted, and it was bound to fail at such an early stage, as the people had not developed yet, as in the West, the public spirit to understand, nor the knowledge to perform, the duties entrusted to them. Selfish motives and personal interests were therefore given free play in a movement, which could only thrive in an atmosphere of mutual goodwill, untainted by greed, jealousy or prejudice.

(iv) Far too much attention was paid to the credit side of the movement, and the non-credit side was almost completely neglected so that it nearly became all credit and no co-operation.

The inevitable reaction followed; co-operators realized at the end of these ten years of reckless expansion that they had gone too far, and from 1927 the policy of the department had necessarily to undergo a fundamental change. Enthusiasm was damped, a halt in expansion was called, and stock was taken of the results so far achieved. The position was found to be depressing indeed. Thousands of societies were found dormant or unsound; overdues were alarming, and the percentage of the people, who were really helped by the movement, was insignificant. Then came the great economic depression, and money became scarce. Overdues leapt up, hundreds of societies had to be wound up every year, prosecutions for fraud were common, and the department had all its work cut out to keep the movement alive by the consolidation of existing societies which promised well, the liquidation of the bad ones, and a ruthless policy of arbitration and execution. The wonder is that the movement has weathered the depression as well it has done. In only one province, Burma, has it more or less collapsed. That such a fate has not happened to it also in Madras and the other provinces is a matter for congratulation. It behoves us therefore to take careful stock of the present situation. Co-operation, it is agreed, is the one real panacea for the difficulties of the peasant. We have, without fear or favour, to face its numerous defects, to eliminate all its bad elements and to adopt a bold, clear, well-planned and comprehensive policy for the future. I consulted many people on this important subject—co-operators, officials, ryots and labourers. I visited a large number of co-operative institutions. The views I express and the remedies I suggest, are those which find favour with the majority. Such a big subject could not be studied thoroughly in a few months, and I hope I shall be forgiven if this chapter is not as thorough and complete as it ought to be.

74. *Officialization versus non-official control.*—I am afraid I have no information as to the extent of government control over the co-operative movement in other countries; but

here, in India, there are co-operative departments of Government which exercise considerable control. The main functions of the department, apart from acting as a guide and adviser, are as follows:—

- (i) Registration.
- (ii) Audit.
- (iii) Arbitration and execution.
- (iv) Liquidation.

Primary societies and banks are run by panchayats elected by members. The supervision is in the hands of non-officials. There is therefore dual control, audit being done by Government and supervision by non-officials. Much controversy has been raging of late over the merits of greater officialization, as against the vesting of more responsibility in non-officials. I am told, and what I have seen clearly indicates, that there is a school of non-official co-operators, which stands for de-officialization and exercises a dominating voice in the affairs of this movement. There is a disinclination to offend this body by word or deed, and many are unwilling openly to question its views, though ready enough to criticize in confidence. Such reluctance to offend has, I fear, led to much "whitewashing" of the defects of the movement. But, if the movement is to be saved and is to be of real benefit to the masses, facts however unpleasant or uncomplimentary, must be squarely faced. This has been done in several provinces of late. The report on co-operative societies in Mysore for 1953-34 is one which, in its honest exposition of the real situation, can well be taken as an excellent example to follow. It certainly cannot be denied that most of the capital in the movement is supplied by the public. If the elective method ensures that those returned to office are the genuine representatives of the people who furnish the credit, then there may possibly be some claim for more de-officialization. But, I respectfully venture to suggest that many of those in office, who are so vehement against official control, are not often the mouth-pieces of those who have supplied the credit. Too often are these so-called leaders of the co-operative movement led away by mere theories and influenced by motives which, to say the least, are mixed. If the public supplies the capital for the movement, the Government supply certain amenities which are quite essential. Stamp fees are not levied, registration fees are halved, and the vigilance and help of officials of the Co-operative department are invaluable and indispensable. I would like to see what those non-officials, who are always hungering for more control, would say if Government suddenly lost all interest in the movement and decided to withdraw completely. If this were done, the movement would most assuredly degenerate into chaos and early collapse.

75. *Supervision and audit.*—Supervision of primary credit societies has been relegated to non-officials now for about fifteen years. What has this done for the movement? I can say with confidence that the history of the

supervising unions in this Presidency at least is nothing but a tale of woe. Managing bodies of unions are composed mostly of representatives of primary societies. The main object of a supervising union is to keep a close watch on the work of granting loans in primary societies, verify loan applications, see to the preparation of property statements, and bring to light by periodic and frequent inspections all defects in the running of such societies. I cannot understand how the present unions can possibly discharge such duties satisfactorily. They cannot be independent and disinterested bodies, as they are run mostly by representatives of the very societies, which have to be supervised. Is it any wonder then that the supervisor is often forced, if he is to keep his job, to collude with the managements of credit societies in all their misdemeanours? The supervisor dares not expose the bad working of such societies, for his hands are tied from the beginning. If he is honest and does his work thoroughly and brings to light various defects and fraudulent acts, he is certain to be given speedy notice to quit. So, he carefully glosses over mistakes and shady transactions. He even colludes sometimes with shady office-bearers of primary societies and helps them in their efforts to obtain money for themselves and their friends by illegitimate means. It is common knowledge that property statements of co-operative societies are about the most unreliable documents that can ever be found. Supervisors must first be trained men of good character. They then have to be controlled properly by a disinterested and independent agency. Financing banks are not suited for such control. They also cannot be said to be entirely disinterested. They are not equipped with sufficient staff to exercise adequate supervision. Most important of all, they have not the experience to run proper supervision. *As long, therefore, as supervision is allowed to run its present fatuous and irresponsible course, there can be no hope for the co-operative movement. The only feasible remedy seems to me to be the transfer of the entire work of supervision to the Co-operative department.* Of what use can audit by the department be, while supervision is in other hands? Such dual control can never work. After all, audit is done only once in six months. In six months much can happen. Unless societies are supervised from their very inception with scrupulous care month by month and more often if necessary, unless defects are rigorously brought to light and immediately rectified, and unless undesirable and unscrupulous office-bearers are ruthlessly removed from office and prosecuted if necessary, what good results can be expected? Audit reports are generally relegated to waste paper baskets, sometimes without even being read. This is what an experienced gentleman, *with no axe to grind*, says on this subject of supervision and audit: "While a searching audit is efficacious with regard to the recurrence of irregularities, it is best to remember its short-comings. Audit is in respect of accounts and transactions already

over and is like the proverbial closing of the stable after the horse has run away. A man may run away with a cash balance of Rupees 2,000, or create fictitious bonds or pass bogus resolutions. The auditor makes a catalogue of these defects and the summary of defects is communicated to the union and the bank for rectification. He goes there again six months afterwards, discovers the same defects or same kinds of defects; feels a little depressed that nothing has been done to rectify the old defects and again submits a summary. This process is going on endlessly. The Deputy Registrar takes action if serious defects are noted, but he notes the same irregularities in all societies and feels awfully depressed. There is nothing to choose between one society and another, between one union and another, and between one district and another. Changes in the personnel of the district officers, introduction of tried-officials of the Revenue department, all have had no effect. What exactly is the cause in all the districts? Human nature is of course common and some of the defects will continue. But to my mind the most potent cause is the parallel non-official machinery of administration. If there should be a parallel Police non-official department with very lax standards of discipline and responsibility, will it be complacently welcomed? In this case, day-to-day administration of societies is practically under the supervisor and the union. The union governing body members are honorary men with no leisure and little knowledge of the intricate working of societies. The diaries of the supervisors are rarely scrutinized, their tour programmes are not properly checked and very rarely is the supervisor even lightly admonished for bad work. At the same time, the supervisor is left to himself; he keeps the union office in disorder, never reads the circulars and shows gross negligence. Any attempt on the part of the financing bank to transfer the supervisor is resented, while recommendations are made to enhance his pay or travelling allowance. Now at the bank itself, there is one clerk to check the diaries of the supervisors, and the executive officer's hands are full. The executive officer is after all a junior inspector and is not fitted to control a big staff. Thus virtually the non-official staff is left unquestioned and uncontrolled. My remedy for this is the immediate transfer of this staff to the control of the department. The Registrar shall appoint and dismiss these supervisors while the Deputy Registrars will control them. It may be argued that these have enough work already. The present work of liquidation is heavy because of want of control over persons who have allowed the societies to go to ruin. It is just like allowing a town to be infected with plague and then resorting to remedial measures. At this rate, the department will have to increase the liquidation staff indefinitely, and more and more the Deputy Registrar's time will be taken with prosecutions and liquidation. It is time that we turn to the preventive side and stop the rot."

I am well aware of the fact that the recommendation given above will raise a storm of protest from a certain non-official section. It will be condemned as a retrograde step and an insidious attempt at unnecessary governmental interference in an essentially democratic movement. I can assure the Government that all those who really count will welcome such a remedy. In fact, it has long been overdue and I hope and trust that the Government will see their way to adopt it as soon as possible in its entirety. There can be no half-way house in such a case. As an example of honest public opinion on this very important question I give below an extract from an article which recently appeared in the *Hindu*: "In many cases, the institutions have been captured by the worst representatives of societies who, by getting themselves elected from them to the directorate of the financing bank, are proving a menace to the safety of the bank by standing in the way of all sound proposals and being also otherwise obstructive. These men, who are generally in the majority, naturally take care to see that men of their own feather are associated with them, both in the supervising unions and in the financing bank; and, as against these persons, there is no chance of the right type of men entering supervising unions or financing banks. The position has been rendered worse in some financing banks by the election of representatives of individual shareholders to the directorate being left to the general body of the bank, instead of to the individual shareholders themselves, as was the case for a long time past. In the agricultural societies, the good and solvent members, partly unwilling to submit themselves to the whims and caprices of the members of the governing body of supervising unions and partly out of fear of sharing their unlimited liability with the growing number of insolvent members and members with no repaying capacity, have gradually fallen off. The limited liability societies such as urban banks, the representatives of which mainly constituted the brain of the supervising union, have in many places got themselves disaffiliated from the union, on the ground that they require no supervision and that they cannot afford to pay both supervision fees to the union

and audit fees to the Government. It may therefore be stated without fear of contradiction that the whole movement is now greatly in the hands of unsatisfactory men, who are exploiting the several institutions under it for the purpose of self-aggrandizement or selfish gain or for serving their political or other ends.

That every one of the above statements is true will be borne out by all mufassal co-operators, who are in the real know of things, and by the various observations of the Registrar contained in the Presidency Administration reports of recent years. Almost all the Registrars have been unanimous in generally condemning the work of supervising unions as unsatisfactory. They suggested from time to time several ways of improving them, not understanding that the real cause of the failure of the unions was due to the non-realization of the natural fact that the debtors or a body of them especially with no repaying capacity and faced with economic distress as at present are unsuited to supervise their own affairs, much less protect the interest of the creditor bank."

The moment supervision is taken over by the department, confidence in the movement will be restored. It will attract honest and upright men, who are now hanging back because of the sorry reputation which the movement has with the general public; a great volume of money will be attracted into it; and I believe that the Imperial Bank will again be willing to tender the help it withdrew, because, as the Managing Governor of the Imperial Bank observes, "the fundamental principle of true co-operation is lacking. Overdues are highly excessive. Audit is defective. Control is inefficient." My recommendation to officialize supervision is not, of course, intended to be taken as a permanent remedy. As the public advances in the true spirit of co-operation, it can gradually be given back responsibility.

76. *Co-operative credit societies.*—The following statement exhibits the strength and position of agricultural credit societies in the last ten years:—

STATEMENT No. 22.—Agricultural Credit Societies.

[Items (3) to (11) are given in lakhs of rupees.]

	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.	1930-31.	1931-32.	1932-33.	1933-34.
1 Number of credit societies ..	9,164	9,823	11,000	11,966	12,382	12,540	12,439	12,080	11,623	11,348
2 Total number of members ..	437,431	523,564	593,315	680,298	652,285	674,590	676,009	638,629	593,374	562,541
3 Paid-up share capital ..	42-81	48-91	58-37	67-56	74-57	80-66	83-24	78-37	73-75	67-95
4 Deposits by members ..	7-01	6-60	7-14	8-16	9-38	9-72	9-60	10-03	10-27	10-59
5 Deposits by non-members ..	9-23	10-11	12-68	16-66	21-81	21-08	25-84	23-55	24-97	26-09
6 Loans from financing banks and other societies ..	274-78	303-25	375-80	438-64	461-91	494-70	474-55	404-25	356-52	331-91
7 Loans from Government ..	4-82	6-14	8-12	9-65	10-32	10-21	10-67	8-88	8-43	5-80
8 Reserve Fund ..	19-07	22-85	27-41	33-13	39-47	46-89	54-20	58-31	63-79	67-18
9 Total working capital ..	358-07	398-23	489-52	573-80	617-46	664-16	659-30	583-37	535-73	510-42
10 Net profit	5-73	6-68	9-26	9-70	12-38	11-51	8-08	9-69	9-74	8-83
11 Loss .. ..	..	..	..	..	..	..	..	22-79	25-82	24-43

The following statement exhibits the steady increase in overdues in the last ten years:—

STATEMENT No. 23.—Showing the percentage of balance to demand under principal, arrear interest and current interest of agricultural credit societies.

Year.	Demand under principal in the year.	Amount overdue.	Percentage of columns (3) to (2).	Interest overdue at the end of the previous year.	Interest overdue at the end of the year of the amount in column (5).	Percentage of columns (6) to (5).	Interest accrued and fallen due during the year.	Balance overdue at the end of the year out of the amount in column (5).	Percentage of columns (9) to (8).
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
	RUPEES IN LAKHS.	RUPEES IN LAKHS.		RUPEES IN LAKHS.	RUPEES IN LAKHS.		RUPEES IN LAKHS.	RUPEES IN LAKHS.	
1924-25	201.57	84.56	41.95	15.86	7.60	49.48	32.05	11.49	35.83
1925-26	233.57	107.70	46.15	19.45	10.48	53.87	36.82	14.78	38.23
1926-27	265.63	121.30	45.66	25.04	13.49	53.88	39.78	16.45	41.34
1927-28	316.74	135.53	42.81	30.17	17.22	57.08	47.85	17.56	30.70
1928-29	361.12	147.73	40.90	35.09	19.33	55.08	55.99	19.99	35.70
1929-30	379.72	176.24	47.00	38.00	22.47	59.00	58.45	25.35	39.00
1930-31	427.30	254.52	59.56	40.96	30.62	65.20	62.75	31.35	49.91
1931-32	436.88	275.74	63.11	61.54	38.31	62.25	60.43	31.29	51.77
1932-33	391.42	264.41	67.55	68.09	44.87	65.89	54.01	32.22	59.65
1933-34	356.24	251.24	70.71	74.78	52.62	70.39	48.54	31.11	64.10

The following statement shows how co-operative credit societies have been classified in the last six years:—

STATEMENT No. 24.—Classification of Co-operative Credit Societies.

Classification.	1927-28.	1928-29.	1929-30.	1930-31.	1931-32.	1932-33.
A Thoroughly good societies	260	471	426	363	348	306
B Societies with some defaulters and some mistakes in accounts	1,728	2,343	2,328	2,311	2,081	1,832
C All other societies that do not come under class D.	8,155	9,135	9,160	9,016	8,951	8,507
D Bad societies which probably have to be liquidated should they fail to come under class C within two years	1,264	1,587	1,509	1,735	1,718	1,982
Number of societies in which collections were—						
95 per cent	1,406	1,619	1,491	935	662	604
70 Do.	1,393	1,816	1,791	1,407	1,159	970
55 Do.	941	1,007	1,012	935	867	687
40 Do.	1,040	1,008	1,121	920	947	759
Below 40 per cent	3,677	3,838	3,796	4,947	3,791	4,119
Dormant societies	1,781	3,223	3,565	3,829	5,447	5,308
Societies in which no loans fell due	1,167	980	647	452	225	180

The position as regards overdues is getting worse every day. Good societies are steadily decreasing, while bad ones are on the increase. Losses are heavy, while profits are dwindling. The total number of credit societies and members have been steadily decreasing since 1928. This is because since 1928 the department has concentrated almost entirely upon consolidation of existing promising societies and the dissolution of the bad. The only encouraging sign is that, as a result of strong Government action, the reserve fund is gradually increasing.

The co-operative movement has lent out only about 6 per cent of the total agricultural debt. There are reasons to suspect that even this proportion is too high an estimate of the genuine loans that were given to really needy peasants. *Benami* transactions are by no means scarce. In many societies, the secretary, or president, or both, are men who wield great influence and completely dominate the remaining panchayatdars. Such influential men unfortunately often enter the movement, not to help the poor and needy, but solely to enrich themselves by all manner of means. Loans are first taken by such men in their own names, then in the names of their friends and relations and others, whom they can dominate. The money does not go to those who ostensibly take the loans. I was told by the secretary of a co-operative society, who spoke openly in a large gathering of people, that *benami* loans often amount from 30 to 40 per cent of the total amounts lent out. The unscrupulous and influential president or secretary gets the thumb-impressions of himself and

his followers on to numerous loan applications, which are promptly granted, as he is a virtual dictator in the society. Most of the money goes to one of them. He sees to it that the supervising union keeps quiet. He even sometimes gets the help of the supervisor in his shady transactions. In one case, a loan was actually granted by a society on the security of a plot of land which bore a survey number not existing in the village. Yet, the application went through with the cordial help of the supervisor. Another secretary of a society told me that, when he was in office, he received a letter from an influential lawyer requesting him to see that a large loan was granted to one of his clients. The loan was not sanctioned and soon after the secretary was turned out of office. Slack and crooked supervision is largely responsible for the continuance of these malpractices. If such are not checked from the outset, the society goes from bad to worse till liquidation and prosecution follow. The thing is to keep societies on the straight co-operative path from the beginning. Owing to the overt acts of a few unscrupulous office-bearers, hundreds of innocent persons are ruined as a result of the application of the principle of unlimited liability.

The following changes in the law and rules at present in force seem very necessary, and I recommend them strongly if they have not already been adopted:—

(i) Wise and solvent men who will really contribute to the co-operative movement will not join the societies unless they know the real state of affairs. All obstructions for

good men to come in should be removed. *For this the maximum of publicity is required.* This was Raffeisen's great maxim. Our societies largely work in the dark and there is the very negation of publicity. Audit reports are not even opened and read for years together, meetings are not held to consider such reports and members are not kept informed of the financial position. *Every society should be compelled to hang up its audited balance sheet in its premises and at the village chavadi, or village post office, so that it may be open to public inspection always.*

(ii) The surcharge powers of the Registrar should be enlarged and appeal should lie only to the Local Government. At present, a surcharge order can be passed only where there is fraudulent breach of trust. If the maximum individual borrowing power in a society is Rs. 500 and a loan is granted for Rs. 1,000, this will be an irregularity and not breach of trust and hence not a case for surcharge. *Surcharge orders should be capable of being issued even in respect of "bad and irregular expenditure of funds or negligence for time-barred debts or loss of decrees and bonds."*

(iii) Wilful disobedience of the Act is now punishable by fine, after prosecution before a first-class magistrate, I consider that the Registrar should have the power after an enquiry to impose a penalty for wilful disobedience of the Act and of by-laws.

(iv) According to section 15 of the Act, the Registrar can ask a society to convene a meeting within one month or call a meeting himself. Bad office-bearers can always avoid such meetings by arranging that there should be no quorum. Meetings convened under this section may be made valid even without a quorum.

(v) *No individual should be entitled to hold office in more than one co-operative society of a similar kind or connected kind at any one time.*

(vi) *The Registrar should be given powers under the Act to remove undesirable men after a proper enquiry.* His orders in this respect can be made appealable to the Local Government.

77. *Interest.*—As already repeatedly pointed out, one of the foremost needs of the Indian farmer is cheap credit. The interest charged by co-operative credit societies is no doubt lower than that charged by the money-lender, and one of the good results the movement has undoubtedly achieved is to bring down the general rates of interest charged by private creditors. But the interest charged by societies is still far too high. The lending rate to-day is 9½ per cent, while instances are not wanting of the old rate of 10¼ per cent being still in force. Some enterprising societies have brought down their interest to 7½ per cent. The main object of the co-operative movement, I presume, is to eliminate the middleman. Unfortunately, this object does not seem to have been achieved by the movement as it stands at present. Members of the

public invest money in the co-operative movement at a low rate of interest. The rate at which loans are granted is high and bears little relation to the rate of interest allowed on deposits in co-operative banks. This marked difference is because of the number of middlemen institutions between primary societies and the Central Bank at Madras. If primary societies are properly supervised, they are likely to attract deposits direct, which will enable the societies to lend at much lower rates of interest than at present. My own opinion is that co-operative credit societies should never be allowed to lend at over 7½ per cent at the very highest and that all decrees executed by the department in future should be calculated only at 7½ per cent or less on the principal, even as regards old debts. There can be no doubt that, if supervision is made adequate and really effective, the public will be eager to invest their money in co-operative banks and societies at low rates of interest.

78. *Overdues, arbitration and execution.*—Quite apart from the defects in the running of the co-operative movement, the slump has hit the movement very hard, as it has affected all creditors. Money is so scarce that overdues are rapidly increasing. I believe that if only societies accepted repayment in kind, the overdues would rapidly decrease. For such a method, the first essential is adequate warehouse accommodation and accurate and up-to-date information of current prices. The society can accept repayment in kind at the current market rates, charging a small commission for selling the produce. The produce can immediately be sold and converted into money. The following suggestions for existing co-operative debts are offered:—

(i) As far as possible, only instalment decrees should be passed.

(ii) Where only a few instalments are overdue, decrees should be passed only for such instalments.

(iii) Penal rates should not be levied except as a last resort.

(iv) By a special provision, the Registrar should be empowered to extend all the existing loans in societies for a period of three years.

(v) The department has held that, in the absence of a definite legal ruling to the contrary, the law of limitation applies to co-operative societies. I respectfully venture to disagree with this ruling, for the following reasons:—

(a) The Indian Limitation Act applies only to courts.

(b) The Registrar and arbitrator under the co-operative societies regulation are not courts for this purpose, although they have been given some of the powers of a court—power to summon witnesses, etc.

(c) Arbitrators are not included in the definition of a court.

(d) The Registrar or the arbitrator is not intended to take the place of a civil court for the disposal of suits.

(e) Co-operative societies are partnership concerns managed by persons elected by themselves for their mutual benefit. Claims due from members to such institutions as a whole are quite different from claims between persons with no common interests.

The question, whether or not the law of limitation applies to co-operative societies, is of vital importance to the movement. I suggest that it be immediately referred to the Advocate-General for a binding legal opinion. At present, unscrupulous panchayatdars deliberately allow quite a large proportion of loan-cases to become time-barred, and ignorance of the law of limitation also contributes largely to such cases. I firmly believe

that "unless it is established that the law of limitation does not apply to co-operative societies, the danger ahead is real and banks will be justified in distrusting societies and restricting credit."

(vi) It is essential that loan applications should be as quickly dealt with as possible, especially for cultivation expenses. There is no use in a loan being granted for ploughing, for instance, when the time for ploughing is over. The speeding-up of the machinery for the granting of loans is, therefore, very necessary.

79. *Non-credit societies*.—The following statement exhibits the number of non-credit societies connected with agriculture in this Presidency:—

STATEMENT No. 25.

	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.	1930-31.	1931-32.	1932-33.	1933-34.
1 Loan and Sale Societies	50	51	53
2 Trading Union	19	9	7
3 Agricultural Improvement Societies	3	4	7
4 Stores	3	5	2
5 Milk Supply Union	1
6 Miscellaneous	14	10	5
<i>Total purchase and sale Societies</i>	89	79	15
<i>Production and Sale Societies</i>	98	..	..	..	..	..	14	12	10
<i>Industrial Societies</i>	5	16	26	41	..	29	2	2	2
<i>Other Societies</i>	5	2	..	..	..
Kudimaramat and Irrigation Societies	12	17	18	17	13	11	11	10
Agricultural Demonstration Societies	18	15	16	17	16	10	10	10
Land Reclamation Societies	9	9	10	11	12	12	12	12
Landholders' Lease Societies	1	2	2	2	15	12	9	8
Arbitration Union	1	1	1	1
Agricultural Improvements Societies	7	14	12	12
Industrial and Credit Societies	2
Cotton Growers Society	1
Field Labourers' and Tenants' Societies	258	299	333	335	313	308	294	234
Labour contract	4	4	5	4	3	2	..	..
Salt licences	1	1	1	1	2	..	..	..
Building Society	1	1	1	2	1	..	..	..
Agricultural implements	1	..	1	1	4	..	..	..
<i>Other Societies—Total</i>	250	300	348	387	391	387	370	349	340
<i>Insurance Societies</i>	8	4	4	8	5	5	..	..	..

The number of non-credit societies is small. No determined and systematic effort seems to have been made at any time to develop this side of co-operation. Madras in this respect compares very unfavourably with the Punjab.

80. *Loan and sale societies*.—The belief that the best form of security to lend on is crops is steadily gaining ground. To develop properly this form of credit, adequate warehousing facilities are needed, and warehouses are hardly found in India. I really believe that the most important step in the emancipation of the ryot is the building of such warehouses. Co-operative societies are too poor to build them without liberal help from the Government. I venture to suggest that the money, which has been recently made available to our Government for rural uplift, may be devoted entirely to the building of warehouses. These should be built in sufficient numbers to cover the whole Presidency, allowing one to each marketing centre. About a thousand godowns have to be put down in the first instance. These should be fire-proof, insect and rat-proof, damp-proof and thief-proof. Each godown should have at least four separate large compartments for storing produce, so that different credit agencies—like

co-operative societies, private banks, the Imperial Bank—can hire a room each. Once the idea of lending on the security of crops has taken root, it will spread like wild-fire and the Government will have no difficulty in letting these godowns out. The terms must of course be as easy as possible.

Lending on the security of produce is by far the best method; provided the produce can be properly warehoused. There will not be overdues, or defalcations, or any of those difficulties which inevitably overtake creditors who lend on immovable property. A safe rule is to lend up to 75 per cent of the current value of the produce. Such lending ensures a quick turnover. Here then is an invaluable opportunity for co-operative enterprise. Societies for this purpose should, in my opinion, combine loan and sale operations. By this means, the power of the middleman will be broken. I visited at Madura a paddy loan and sale society, which was planted in the very heart of the *mandis*. During the short period it had been at work, it had, in spite of strenuous opposition, done a great deal to help its members. The following is a short account of its working. It was opened on 21st April 1934. There are 59 members with a paid-up share

capital of Rs. 2,310. The society deals mainly in paddy. Up to 15th February 1935, 5,555 bags of paddy and 583 bags of groundnut were received and all, but a balance of 910, were sold for Rs. 22,365, realising a commission of Rs. 586. Of Rs. 6,983, borrowed from the Central bank, all but Rs. 1,310 was repaid. In two months in the co-operative year 1933-34, the society earned nearly Rs. 150 in profit, and declared a dividend of 9 per cent on paid-up share capital. The society advances money to the extent of 75 per cent of the value of the produce. It charges a commission for sale of one anna to the buyer and one anna to the seller per bag. Ryots, by going to this society in preference to *mandis*, have been benefited to the extent of Rs. 1,400, by getting better prices and by correct weighment and measurement. The society has a good name and is pulling its weight in spite of opposition and counter-propaganda of 60 private *mandis*. Much work has been done in paying off loans to credit societies from the monies advanced on produce. The society has rented two buildings as godowns and feels the want of proper warehousing facilities keenly.

Once proper warehouses have been provided, such societies ought to be started all over the country. There is full scope for the opening of as many societies at marketing centres as there are godowns. In starting and working such societies the following precautions should be observed:—

(i) Always combine loan with sale operations.

(ii) There should always be a paid secretary and sales officer, if a co-operative inspector or agricultural demonstrator cannot be spared.

(iii) The department should exercise a careful and close supervision, especially over measurement and weighment of produce and the selling of it.

(iv) No society should be permitted to bind itself to sell only to a few dealers. The Tiruppur Co-operative Trading Society has agreed to sell *kappas* only to three dealers. Such a limitation of the market obviously tempts buyers to combine.

(v) A broker should never be employed as an intermediary. Here again the Tiruppur Society, I think, is at fault. A broker or agent between the society and the merchants is not only unnecessary, but also introduces the middleman into societies. Our object is to eliminate middlemen.

(vi) Dealing with ryots should always be prompt and business-like. Too often ryots are discouraged by having to wait for hours or even days before being attended to.

(vii) Receipts should immediately be given to ryots for bags stored, detailing the number of bags and their contents.

(viii) Regular and thoroughly business-like accounts should be kept.

(ix) The private interests of influential office-bearers or members should not be allowed to mar the spirit of mutual and equal help to all.

(x) The lowest rates of commission and interest possible should be charged.

Loan and sale societies properly run cannot but succeed, for the principles on which they work are simple and straightforward. Active and intelligent propaganda is however needed. Take the Rasipuram Co-operative Trading Society in the Salem district for example. It was registered in 1929, but did no work till February 1935, owing to slack running and want of proper interest in it. Active propaganda in villages immediately bore fruit, so that in just over two months of working the society was able to sell the cotton of members to the value of Rs. 34,000, realising a commission of Rs. 500. The society in the short period of its active life has been able to eliminate the village middleman, who stands between producer and mill-owner, thus saving the ryot from false weighments, which entail a loss of from ten to thirty pounds per *pothi*, and from false prices. The society by the auction system secures the best prices for its members. This society is badly in need of a proper godown. It intends to do business in groundnut after the cotton season is over. Much of the success of the society is due to the excellent non-official man-power available. The warehouse officer is a co-operative inspector. Another similar society, which has achieved no small measure of success, is the Groundnut Loan and Sale Society in South Arcot.

81. *Controlled credit.*—It is essential to ensure that loans given to ryots by Government or co-operative societies are not abused. I have already suggested that this can partly be done by lending in kind as far as possible. I am afraid little or no attempts are made by *panchayats* of rural societies or by supervising agencies to ensure that loans are applied for the purposes for which they are given. Rural credit can be really controlled only by linking it with marketing. The description sent to me of the method adopted in the Cuddalore warehouse will explain what exactly is meant by *controlled credit*. The scheme was by no means ambitious and did not seek to control all credit in the district. It financed the cultivation of groundnuts for about 25 societies by granting from Rs. 10 to Rs. 25 an acre and confined its activities to the control of such loans alone. Borrowers were obliged to show the agricultural demonstrator and the co-operative staff the lands which were to be cultivated with the loans. If the staff were satisfied that the land would yield about three times the money advanced, the loans were sanctioned on surety bonds or mortgage-deeds, on the condition that the harvest would be sold through the Co-operative Warehouse at Cuddalore and that loan dues would be recovered from the sale-proceeds. The loan was disbursed in two instalments, one for ploughing, manuring and sowing, and the other for weeding and harvesting. The second instalment was not disbursed till the land was inspected and the inspecting staff certified that the nature of the crops justified the second instalment. Further control was exercised by the staff, which visited

villages during harvest time and secured the produce for the warehouse. The scheme in short was "one of lending in coin and realising in kind after supervising cultivation." It bore rich fruit. Much of it was due to the hearty co-operation between members of the Agricultural and Co-operative departments. A sum of about Rs. 20,000 was advanced and all but a sum of about Rs. 1,600 was realised by means of deduction of sale-proceeds. There were only two members who attempted to evade the conditions. Both these apologised and came into line on a threat of prosecution. The subject of controlled credit is so very important and, if adopted throughout the Presidency, so likely to bear such rich fruit, that I venture to quote from an account of the working of the Koraiyet Co-operative Society given by one who knows what he is talking about: "They had tried money-lending there in the past, and burnt their fingers. Loans had been decreed and lands had been sold up to realise the arrears. The Assistant Director of Agriculture and I proposed to do rural uplift in such a society. We offered to help in cultivation the members, who had given up groundnut cultivation for want of cheap credit. We inspected the lands, on which the cultivation was to be done; we estimated the probable yield at about Rs. 60 to Rs. 75 per acre; we got the Central bank to advance to the members of the society Rs. 25 an acre in instalments, once for ploughing and manuring and once for weeding and harvesting. Every borrower bound himself in writing to cultivate the lands he showed us for inspection and to deliver the produce raised for sale through the Co-operative Warehouse at Cuddalore. In all Rs. 1,895 were disbursed for the cultivation of irrigated groundnuts. We made sure by frequent inspection that every pie of the loan given was utilised for the purpose for which it was given. When the harvest came, member after member, true to the agreement he had signed, delivered the produce for sale through the co-operative warehouse. In all Rs. 4,000 worth of groundnuts from this society were sold through the warehouse, which deducted the loans advanced by the Central bank and paid the balance to the respective members. The society did not default to the Central bank. But the satisfaction in the method lay rather in the fact that Rs. 4,000 worth of groundnuts were produced in a village, which had almost given up raising groundnuts this year. The satisfaction also lay in the fact that sale through the co-operative warehouse gave the ryots Rs. 3 to Rs. 4 more per candy of groundnuts, by eliminating the middleman with his false weights, his false weightments and his false prices."

82. *Co-operative Stores*.—The success of such stores depends, as is well known, upon the loyalty of its members. Co-operative Stores are greatly needed in areas like the Upper Palnis in the Madura district, the Nilgiris, the Agency tracts, and all such places to which transport facilities are few and the cost of transport is high. Take the Upper Palnis for instance. When I was camping at

Kodaikanal, hundreds of ryots from distant villages came to me to represent their difficulties. They told me that merchants and traders—(mostly Chettis from Vadagapatti) hold them in a grip of iron. They have a monopoly of stores and the ryots are too poor to pay cash for their requirements. So, these shop-keepers rent stores of a poor quality at high prices on credit at the most exorbitant rates of interest. Ryots are compelled to sell their produce to these traders at ridiculously low prices, to say nothing of false weightments and measurements and deductions for all manner of things. Further, ryots are too poor to cultivate their crops. They are obliged to borrow from these traders at very high rates of interest. The ryots begged me to arrange for the starting of small co-operative society stores at convenient centres. I believe that such stores, backed by a comprehensive scheme of controlled credit including loan and sale operations, will prove a great success. The remarkably successful co-operative stores at Kodaikanal serves Government officials, retired gentlemen and others, more than the ryots themselves who live far away in distant villages.

83. *Other non-credit societies*.—There is scope for much expansion in all directions—such as consolidation of holding societies, better living societies, co-operative farming, arbitration societies, and so on. From the reports received, the Punjab has evidently much to teach us in this direction. I suggest that an officer be deputed for six months to study the working of non-credit societies in the Punjab.

84. *Co-operation for women*.—I am of opinion that attempts should be made to start co-operative societies among women. There is no doubt that women can co-operate with men in joint organizations, and the trend of equality between the sexes would seem to demand a corporate activity. But, there are some reasons against this. In the first place, the social system of India is all against it and is likely to keep women in the background so that their interest will never be fully aroused and they will still depend greatly on men. If Indian women are to be improved, their sense of responsibility must be fully roused, and this can best be done by giving them their own concerns to manage. They must be sole masters and not be hindered by special customs and the presence of men. They must in fact learn to depend on themselves. In the second place, there are special problems for women, anxieties and difficulties which can best be tackled by themselves *alone*, at present at least. Lastly, even in Western countries, by recognizing this principle it has been definitely understood that by separate systems a separation of ideals and interests is not at all meant. As the President of the International Co-operative Women's Guild is reported to have said:—

"A woman's co-operative movement may therefore be an organic member of the whole movement and work in closest harmony with

it. It has never been possible for a woman's movement to be organized if led by men. Women had always to prepare the way for their sisters. Propaganda and the education of women must be organized on different lines from those of men. Man is not a house-wife; he does not know the little world of the household although he lives in it, and many things which are of vital importance to woman appear trifles to man, because he does not understand them. The house-wife can only be understood if the bridge between domestic economy and co-operation is built with a definite end in view."

85. *Education.*—It is unnecessary for me to stress the importance of educating the people in co-operative matters. In this, the department will do well to work in close collaboration with the Agricultural department.

86. *Training.*—A proper training college for co-operative officials seems as necessary as an Agricultural college is for demonstrators and other officials of the Agricultural department. If supervision is taken over by the department, the supervising staff should be a well-trained band of men, carefully chosen. Even Deputy Registrars and Sub-Deputy Registrars can well have a course of training for at least about three months each, particularly in marketing problems and the working of non-credit societies. I have often noticed that really keen Deputy Registrars are often groping in the dark as to how best to break fresh ground in non-credit work. They are often obliged through ignorance to adopt a "hit-and-miss" policy, involving many avoidable failures before success is eventually achieved.

87. *The need for a progressive policy.*—Finally, I venture to plead for a policy of steady, but cautious, expansion in all directions. Mr. Jack, in his *Economic Life of a Bengal district*, very wisely observes as follows, and his remarks apply with equal force to the movement in this Presidency: "The Government policy in respect of the movement has been announced as a policy of slow and cautious expansion, aiming avowedly at a distant millennium. It is urged in favour of slow expansion that the virtues of the movement lie in teaching the cultivator co-operation and a sense of responsibility and that, if the movement were pushed at a gallop, these virtues would be likely to be lost sight of in the cloud of dust. There is substance in these views no doubt, but a substance which it is sometimes difficult to separate from the shadow. Caution and slowness are comparative terms; and it is not easy to say how many years of waiting and watching are needed to justify their use. In Faridpur at the present rate of progress, which has not enabled one hundredth part of the ground to be covered in ten years, it would require a thousand years to eliminate the professional money-lender by co-operative effort. Indeed, the movement has not as yet got any real hold upon the district, nor is it likely to get any real hold until pioneer societies have been established far more widely than at present."

88. *Land mortgage banks.*—I have little to say on this subject. There were 64 primary land mortgage banks in this Presidency at the end of 1933-34, and several new banks have been subsequently registered. The need for steady, though cautious, expansion is very great.

The bank charges interest at the rate of $6\frac{1}{2}$ per cent. With a lowering of the interest on debentures, the lending rate may be reduced to $5\frac{1}{2}$ per cent or even less. Long term credit of this sort should bear as low a rate of interest as possible. Here also, as in the case of co-operative credit societies, I suggest that repayment of loans in kind may be accepted, the banks arranging through loan and sale societies for the immediate sale of such produce.

I suggest that, for the time being at least, loans may be granted solely for repayment of prior debts, especially after they have been conciliated. Even if debt conciliation boards are not constituted, I believe that primary land mortgage banks, with the help of the co-operative staff lent to them, can do much in the way of persuading creditors to agree to forego a substantial portion of their dues in return for payment in cash.

Very severe tests have to be passed by the borrower before he is given a loan. It is no doubt a good thing that the Central Land Mortgage Bank is cautious in sanctioning loans; I venture, however, to suggest that there is perhaps too much caution. For one thing, to limit loans to only 40 per cent of the market value of the hypotheca is perhaps erring on the wrong side. The Mysore Committee has recommended that the limit be raised from 50 to 70 per cent. I would recommend the raising of the limit in Madras to 60 per cent. Again, I do not see any reason why good dry land of itself should not be accepted as proper security, even if not backed by wet land.

I would suggest that the limit of lending be raised normally from Rs. 5,000 to Rs. 7,000. This will make land mortgage banks capable of supplying finance to debt conciliation boards, whose limit as regards applicants is a debt of Rs. 10,000. The period of repayment may be extended to 30 years.

I visited several land mortgage banks. What struck me forcibly was the enormous number of rejected loan applications, as compared with sanctioned applications, I examined several cases in detail. I confess I was sometimes puzzled why some applications were rejected. In some cases, the titles were sound, the repaying capacities were good and the value of the hypotheca sufficient. They had been strongly recommended by the primary banks and sub-deputy registrars, and legal opinion held definitely that the title was good. Yet these applications were rejected, while others of no better position, as far as I could see, were sanctioned. I venture to suggest that greater care be bestowed by the Central Land Mortgage Bank on the scrutiny of loan applications, which have been strongly recommended by primary land mortgage banks, the

legal adviser and sub-deputy registrars, and that only the really unsatisfactory cases should be rejected. It is also necessary that detailed reasons should be given by the Central Land Mortgage Banks, or primary land mortgage banks, for rejection and that copies of such findings be given to the disappointed applicants. Otherwise, it is difficult for them to find out exactly in what they are lacking and how they can improve before they can apply again with success.

CHAPTER IX.—A SCHEME FOR CO-ORDINATED AND PLANNED ACTION.

89. *Concentration centres.*—In every taluk, there are from five to ten natural marketing centres, each centre being within fairly easy reach of a group of surrounding villages, from which ryots bring in their produce periodically for sale. These are the centres where facilities for rural help may profitably be concentrated. I very strongly recommend that the following, among other, facilities may be made available at these centres:—

- (i) A good warehouse for storing produce.
- (ii) A loan and sale society.
- (iii) A co-operative credit society for the supply of cheap, short-term, controlled credit for productive purposes, chiefly, cultivation expenses.
- (iv) A co-operative stores.
- (v) Other non-credit societies for the peasant population, most suited to local conditions.
- (vi) A well-stocked agricultural depot under a demonstrator to supply ryots with implements, seed, manure, graft plants, poultry eggs for hatching, bee-hives, and so on.
- (vii) A small farm of 2 to 3 acres for demonstration purposes.
- (viii) A well-informed price information bureau.
- (ix) A stud bull.
- (x) A veterinary dispensary.
- (xi) A dispensary in charge of an official of the Public Health department.
- (xii) A boring inspector and a boring set for putting down wells.
- (xiii) An inspector of industries.
- (xiv) A school for adults for the spread of knowledge pertaining to agriculture, co-operation, industries (especially cottage industries), public health and so on, with facilities for a certain amount of practical training. Model appliances should be available for demonstration.

(xv) A wireless loud speaker.

In working such centres, officials of the various Government departments should, I submit, co-operate closely with each other. The activities so co-ordinated will soon make such centres popular and useful. Intensive village propaganda is needed and, if necessary, special institutions like co-operative societies may be started in villages, but controlled from the

centres. The wireless will prove invaluable in attracting people) and as an instrument for amusement and imparting instruction is likely to be unrivalled, especially, before the novelty wears off. Periodic lantern lectures, special lectures by well-known people (officials and non-officials), and so on are required to relieve monotony. Exhibitions, fairs, competitions and the like can be gradually introduced. In fact, there is no limit to the spread of activities in and around centres, once they have been given a fair start. In order to co-ordinate activities, one experienced officer with a few assistants may be appointed for the whole Presidency. Such centres have to keep in close contact with debt conciliation boards and land mortgage banks.

90. *Spread of education.*—It is not necessary that agricultural knowledge could be imparted only by officials of the Agricultural department, industrial knowledge by officers of the Department of Industries and so on. I suggest a wide pooling of knowledge by pamphlets and mutual exchange of views so that all touring officers and subordinates can spread useful knowledge on all subjects pertaining to the welfare of the villager. The officials of the Revenue department for instance can do a great deal during their tours in imparting knowledge and instruction relating to agricultural improvements, cottage industries, village sanitation and co-operative principles.

91. *Official and non-official co-operation.*—Officials and non-officials can usefully co-operate in rural uplift. I suggest the formation of rural uplift committees in every district headquarters, with branches in every taluk. These should include officials of the Revenue, Public Works, Forest, Public Health, Veterinary, Medical, Agricultural, Co-operative and Industries departments. Non-officials and representatives of local bodies, should include leading men as well as women. Special attention should be paid by such committees to education of the villager in matters relating to health and welfare. Mere lectures and discussions will be of no use. Villages have to be regularly visited and special attention is needed to impart knowledge to women. Once the women of villages are interested, improvement will soon follow in all directions. District committees can be co-ordinated by means of a central committee at Madras. The work of arranging for suitable broadcasting programmes should be one of the important duties of such committees.

CHAPTER X.—LAND REVENUE, FORESTS AND IRRIGATION.

92. *Land revenue policy.*—As is well known, rates of assessment on ryotwari land are arrived at on certain settlement principles, the most important of which is that the share to be taken as the Government demand shall not exceed half the net produce. In arriving at an estimate of the net produce, deductions from the gross values of produce are made for cultivation expenses. Liberal allowances are made

for vicissitudes of season, cartage and merchants' profits and so on. Grain returns are converted into money rates by the application of the average prices of staple food crops for the twenty previous non-famine years. At a resettlement, which ordinarily occurs once in thirty years, the rates are revised mainly with reference to the average prices of staple food crops in the 20 previous non-famine years. The economic condition of the ryot is investigated into and the new rates can be adjusted so that he can pay them. The maximum increase in assessment at resettlement is limited to 18½ per cent, where enhancements are proposed on the basis of rise in prices only.

Viewed as a rent the land revenue assessment cannot be said to be excessive. As a tax it may be regarded as rather heavy, especially in bad years. If, however, the expenses of the ryot are to be reduced by a reduction in land revenue, so that he may have a bigger margin of profit to pay off his debts with, the fact must be faced that Government will have less money to spend on the people, as the bulk of the revenue of local Governments is derived from tax on land.

93. *Rent on zamindaris.*—The commuted money rents in many zamindaris are very high, sometimes going up nearly to Rs. 30 an acre. These high rates are in my opinion a hardship on the ryot, especially when, as I am told, communal facilities like irrigation works, grazing grounds and the like are, in certain zamindaris, left in a neglected state. I believe there is need for a careful re-examination of the commutation rates with a view to revising them where they are found to be pitched too high.

94. *Irrigation.*—The best form of insurance against vicissitudes of season and famines is to increase and enlarge the sources of regular supply of water for irrigation. Big irrigation projects are few. They cost much money and are consequently expensive to the agriculturist.

Tanks can with profit be repaired and enlarged. Many tanks have been abandoned, because ryots have been unable to contribute to their reconditioning. I suggest that works on as many of these as possible be taken up, by offering more liberal terms to the ryots, even recovering, if necessary, contributions from them in small instalments spread over a number of years.

The most desirable form of irrigation work by far, however, is the well. A good well will irrigate from 5 to 10 acres of land. While touring in Anantapur and Bellary districts recently, I was struck by the prosperity and greenness of small bits of land blessed with wells, as compared with the general atmosphere of famine-stricken barrenness. I suggest that a definite policy in the construction of wells be taken up, especially in districts susceptible to famine. The work should be systematically taken up, taluk by taluk,—the possibilities first surveyed and explored, and then the wells put down, partly perhaps by direct Government help and largely by loans granted to ryots on easy terms.

CHAPTER XI. MISCELLANEOUS REMEDIES.

95. *Communications.*—My inspections and enquiries clearly show that village communications are quite inadequate. Local bodies, which derive a large income from cesses contributed by the ryot population, are, I am afraid, often negligent of the interests of the villager, especially in the provision and maintenance of village communications. The general complaint is that villages, in which the president of the board or his friends and relations have no concern, are completely neglected and no amount of petitions or deputations about them are of any avail. Inadequate village communications contribute much to the expenses and hardships of the ryot. Varakavipudi village in the Nellore district, for instance, is 14 miles from Nellore town. There are 8 miles of road and 6 miles of sand in between. The village is a wet one. Cart-hire for these 14 miles, much of them over heavy sand, actually comes to Rs. 6 or Rs. 7 for two carts which carry one *putti* of paddy. The position is the same for five other villages nearby. Numerous petitions have been sent to the president of the district board, but nothing has come of them. District union and panchayat boards should be largely responsible for rural welfare. Their neglect of their duties in this respect may be taken serious notice of by the Government. Of what real advantage to the ryot are first and second class roads, when he has to traverse with his country cart miles of neglected cross country to get to them? Why should the ryot pay local boards so much in cess, if even his elementary requirements are not considered?

96. *Weights and measures.*—A bill for the standardization of weights and measures in his Presidency seems to be urgently called for. The work of the stamping party has to be not only enlarged, but also modified, so that it may cover every corner of the country, as well as ensure perfect immunity from tampering of stamped weights and measures. All officers of the Revenue, Co-operative and Agricultural departments, not below the rank of a revenue inspector, should be authorized to inspect weights and measures and launch criminal complaints.

97. *Transport.*—I venture to suggest that motor transport of agricultural produce may be encouraged by a reduction in taxation of lorries and if possible of the import duty on them.

Railway freights for agricultural produce are generally pitched too high. There have been some concessions of late, particularly for paddy; but I believe an all-round substantial reduction in freights for all agricultural produce is urgently needed. Some districts raise food crops far in excess of their requirements, while others do not raise enough. Unless the movement of produce throughout the country is fluid and free, proper adjustment of supply and demand is not possible. I venture also to recommend a flat rate per mile irrespective of distances to be covered. Chapter VII of Mr. C. R. Srinivasan's report on *Rice production*

and trade in the Madras Presidency is well-worth study in this connexion. To quote from page 70 of his report: "As an illustration let us take the case of the parboiled rice from West Godavari which sells at Rs. 6 per bag of 164 lb. at Madras. The price per bag of paddy at Godavari can then only be Rs. 2-13-0 as shown below:—

Charges incurred per bag before the rice arrives in Madras.

	RS.	A.	P.
Commission at Madras	0	1	0
Freights and incidental charges ...	1	2	0
Cost of gunny	0	3	0
Milling charges	0	4	6
Profit of the miller or merchant ...	0	1	0
Brokerage, weighing, etc.	0	0	6
Total	1	12	0

Therefore, the price of 164 lb. of rice or its equivalent 246 lb. of paddy will be Rs. 6, minus Rs. 1-12-0, or Rs. 4-4-0 in Godavari and hence the price of one bag of paddy of 166 lb. will be Rs. 2-13-0. Any reduction or complete elimination of expenditure under any of the abovementioned items would tend to increase the share obtained by the producer of the price paid by the consumer. During the last two or three years the expenditures under most of the above items have already been reduced to the absolute minimum and would not offer scope for any further reduction. The only item that can possibly be revised is railway freight as has been shown already."

98. *Emigration.*—Emigration is mostly confined to labourers who go to work in estates in Ceylon, the Federated Malay States and so on. The slump has naturally reduced such emigration. I suggest that all possible efforts are needed to stimulate emigration.

99. *Insurance.*—There are no insurance companies for the poor man. A great step forward will undoubtedly be taken if insurance companies can be persuaded to do business in small policies suitable for the small farmer. Such policies will soon become popular if properly advertised and pushed.

100. *Education.*—Finally, I wish to touch on the very important subject of education. Elementary education obviously needs to be rapidly extended in villages. In this extension, I think, a definite *agricultural twist*, as some one puts it, ought to be given to it. Special attention is needed to make rural economics, with practical out-door training, a compulsory subject. Since primers are needed to teach reading and writing, they should also be treated as a means of imparting useful knowledge in rural life and especially in agricultural economics.

Schools, I submit, should be as near the abodes of children as possible. The latter cannot be expected to walk even a mile or two in a hot and uncertain climate to get to a central school. The present hours of teaching are too long. A labourer and small farmer

expects his children to earn for him. He is therefore unwilling to permit them to spend the whole day in school. If only school hours for children are reduced and so fixed as to interfere as little as possible with agricultural and other operations in which children can be employed, school attendance will greatly increase. The following striking extract from an economist of Mysore has much truth in it: "Raise the economic efficiency of the villager—that is the most fundamental thing to be done . . . Parents of the boys have just confirmed my opinion. At least in sixty families I heard the master of the house complaining against the education that was being given to his boys in Government schools. Said they: 'You engage the boys for the whole day for four years in the primary schools and for six years in the middle schools. We at home give them special treatment in the shape of exempting them from our professional and accessory work, just because they are engaged working all the time with you. At school, whatever you teach or do not teach, you certainly teach the boys one thing—to sit on benches with minimum physical activity and to use the hand mainly for one thing, namely, writing. What happens? After the four or six years' course the boy returns home to join his parents in work; he enters life (as I have already said a very high percentage of rural families cannot afford to send and maintain their children in towns for years together, nor do they like it). The rough agricultural work which has to be done the boys do not like. They have lost their respect for labour and consider it as mean. Their physiques are weak on account of continuous disuse. They always yearn to take up some clerkship or some village schoolmastership or, to go to town. Such of them that get such places cannot maintain themselves with the pittance they get as pay.' And the climax of the tragedy comes up when the illiterate, uncivilized father is forced to send remittances to supplement the meagre earnings of his *educated* son."

We are spending much money on Universities. In the Madras Presidency, two new Universities have lately sprung up. If they are to prove really useful to this country, special attention should be devoted to practical research and welfare work in villages; and agricultural economics should, I believe, be made compulsory even for University students.

101. *Conclusion.*—In conclusion, I wish to record my thanks for the strenuous work done for me by my clerk, R. Rangasayee, and my stenographer, K. Narayana Rao. My grateful thanks are also due to all those gentlemen, official and non-official, who have tendered and collected evidence for my report.

I have the honour to be,
Sir,

Your most obedient servant,

W. R. S. SATHIANADHAN.

Special Officer.

Government of Madras

LAW (GENERAL) DEPARTMENT

G.O. No. 2942, 12th September 1935

Agricultural indebtedness—Report of the Special Officer—Placed at the disposal of the Press.

Order—No. 2942, Law (General), dated 12th September 1935.

The Government direct that the report of the Special Officer appointed to enquire into agricultural indebtedness in this Presidency be placed at the disposal of the Press.

(By order of the Governor in Council)

C. GOVINDAN NAID,
Joint Secretary to Government.

To the Board of Revenue (Land Revenue and Settlement).
.. the Hon'ble the Chief Justice (with C.L.).
.. the Registrar of Co-operative Societies.
.. all Collectors.
.. all District Judges.
.. the Inspector-General of Registration.
.. the Director of Agriculture.
.. the Accountant-General.
.. the Departments of Secretariat [except Finance (Pension)].
.. Mr. W. R. S. Sathianathan.
.. the Superintendent, Government Press.
Press.

X9(J):6:(Z21)

95

GOVERNMENT OF MADRAS

DEVELOPMENT DEPARTMENT

PRESS COMMUNIQUE

Dated Fort St. George, the 30th March 1938.

The following summary of the Madras Agriculturists' Relief Act, 1938, is published with a view to apprise the public of the provisions of this important measure. Since there was a controversy over many of the provisions of this measure when it was considered by the Legislature it is important that the final shape of the relief afforded to agriculturists under the Act which is now law should be as widely known as possible. No copy right is reserved in regard to this summary; and political and social workers and organizations throughout the Province are requested to copy, translate and publish it so as to reach the agriculturists in the villages.

THE MADRAS AGRICULTURISTS' RELIEF ACT.

(In force from 22nd March 1938.)

1. OBJECT OF ACT.

The object of the Act is to give relief to indebted agriculturists. This object is attained by:—

- (1) Scaling down their existing debts.
- (2) Reducing the rate of interest on their future debts.
- (3) Writing-off the arrears of rent dues to zamindars, janmis and other landholders.

2. DEBTS SCALED DOWN.

Debts are classified into two categories:—

- (a) those which were incurred before 1st October 1932; and
- (b) those which were incurred on or after that date.

The relief given is different in the two cases.

(A) DEBTS INCURRED BEFORE 1st OCTOBER 1932.

1. In the case of these debts, all interest outstanding on 1st October 1937 is wiped out and only the principal or such portion of the principal as may not have been paid will be due from the agriculturist.
2. Where an agriculturist has paid twice the amount of the principal to his creditor by way of interest or principal or both, the entire debt (principal and interest) is wiped out.
3. Where the repayments made exceed the principal, but are less than twice the principal, only such amount as would be necessary to bring up the amounts repaid to twice the principal, or such portion of the principal as is outstanding, whichever is less, need be paid.
4. Where a debt has been renewed and a fresh document has been executed, only the principal originally advanced together with the sums subsequently advanced as principal will be regarded as the principal for the purpose of these provisions.

(B) DEBTS INCURRED ON OR AFTER 1st OCTOBER 1932.

In the case of these debts, the principal or such portion thereof as may be outstanding is not affected and will have to be repaid. Relief is given only in respect of interest. Interest is calculated at 5 per cent per annum simple interest. All payments made by the agriculturist towards interest are deducted from the interest as so calculated, and only the balance, if any, will be due from the agriculturist.

3. FUTURE INTEREST.

No debt incurred by an agriculturist *after the 22nd March 1938* will bear interest at a rate exceeding 1 pie per rupee per mensem simple interest, or one anna per rupee per annum simple interest. This is the same as $6\frac{1}{4}$ per cent.

4. WHOM DOES THE ACT BENEFIT?

Every person who has a saleable interest in any agricultural land not situated within a municipality or cantonment is entitled to the benefits of the Act. Persons who hold land as ryots or tenants under zamindars or inamdars are also entitled to the relief provided. So are persons who hold an interest in land as kanamdars, kuzhikanamdars or verumpattamdars under janmis in Malabar.

Lessees and sub-lessees are also benefited by the Act.

Large zamindars, janmis, and inamdars have, however, been excluded from the benefit of the Act. A landholder of an estate who pays more than 500 rupees as peshkash, a janmi who pays more than that sum as land revenue, and an inamdar who pays more than 100 rupees as quit-rent or jodi will not be entitled to the benefit of the Act. Ryotwari pattadars will, however, derive the benefit irrespective of the amount of land revenue paid by them. Even an agriculturist who has been declared insolvent will get the benefits of this Act if his property has not been already sold and payment made to his creditors out of the sale proceeds.

5. WHO CANNOT GET BENEFIT UNDER THE ACT?

The Act does not give relief to the following persons:—

- (a) Persons who were assessed to income-tax in the year 1936-37 or 1937-38; +
- (b) Persons who have been assessed to profession tax on a half-yearly income of more than Rs. 300 or to property tax or house-tax in respect of buildings or lands of an annual rental value of Rs. 600 or more in a municipality, cantonment or ex-union panchayat.

6. DEBTS NOT AFFECTED BY THE ACT.

The following debts are not affected by the Act and will have to be paid in full:—

- (a) Usufructuary mortgages where no rate of interest is stipulated;
- (b) Any balance of purchase money due in respect of immovable property which has been sold;
- (c) Any sums due to a public company or bank, provided the interest payable is not more than 9 per cent per annum;
- (d) Any sum declared as costs by any court;
- (e) Any sum spent to preserve mortgaged property;
- (f) Any sums due to Government or to local bodies;
- (g) Any sums due on a mortgage of house property alone in a municipality, cantonment or ex-union panchayat;
- (h) Any sum due to a co-operative society or a land mortgage bank;
- (i) Sums due on the 1st October 1937 to a woman creditor not owning any other property (exclusive of the house in which she lives, wearing apparel, jewellery and the like), provided that the principal amount of the property owned by the woman in the shape of debts due to her is 3,000 rupees or less;
- (j) Wages due to agricultural or other rural labourers;
- (k) Any liability arising out of a breach of trust; and
- (l) Any sum payable as maintenance.

7. JOINT FAMILIES.

Joint families will also be entitled to the benefit of the Act. If the family as a whole was assessed to income-tax or to any profession or property tax which would have dis-entitled an individual assessee to the benefit of the Act, neither the family nor any member of the family would be treated as an agriculturist. If certain members of a joint family are agriculturists while others are not, the family debt will be divided and the shares of the agriculturist and of the non-agriculturist members ascertained separately.

The non-agriculturist members will remain liable for their full share of the debt, while the agriculturist members will have their share of the debt scaled down in accordance with the provisions of the Act.

8. DECREES RE-OPENED.

'Debt' as defined by the Act will include decree debts also, and so any amount due under a decree which remained unsatisfied on the 22nd March 1938 will, on the application of the agriculturist judgment-debtor, be scaled down in accordance with the provisions of the Act.

Proceedings in execution of a decree will, on application, be stayed until the decree is amended. An application for the amendment of the decree should, however, be made within 60 days of the stay order.

9. SALES SET ASIDE.

Any costs allowed to the decree-holder in a suit instituted after 1st October 1937, are also liable to be reduced.

Where immovable property of an agriculturist has been sold or foreclosed on or after 1st October 1937, the agriculturist debtor is entitled to apply to the Court within 90 days after the 22nd March 1938, for setting aside the sale or foreclosure of the property. In such cases, the interest of the creditor is safeguarded by providing that alienations of immovable property made by an agriculturist debtor on or after the 1st October 1937 will be invalid against the creditor concerned.

Where any movable property of an agriculturist has been sold on or after 1st October 1937, the sale will stand but the decree-holder is required to refund any sum received by him on or after that date in excess of the sum to which he would have been entitled if the property had not been sold.

10. INFORMATION FURNISHED.

Creditors are entitled to apply to the Collector of the district or to the executive authority of the municipality or local board concerned, for information as to whether their debtors have been assessed to income-tax or to profession, property or house tax in a cantonment, municipality or ex-union panchayat. The information furnished by the Collector or executive authority is receivable as evidence in Courts of law.

11. ARREARS OF RENT WRITTEN OFF.

All arrears of rent due to landholders or undertenure holders under the Madras Estates Land Act or janmis or intermediaries under the Malabar Tenancy Act, for fasli 1345 and earlier faslis are to be treated as discharged, subject to two conditions, viz., (a) that the rent for fasli 1347 is paid on or before 30th September 1938 and (b) that the rent for fasli 1346 is paid on or before 30th September 1939. Where only a portion of the rent for fasli 1346 has been paid before 30th September 1939, the rent for fasli 1347 having been paid before 30th September 1938, the arrears for fasli 1345, etc., will be discharged only in the same proportion as the rent actually paid for faslis 1346 and 1347 bears to the full rent due for those two faslis.

Land-cess recoverable by a landholder under the Madras Local Boards Act, land revenue and water-cess payable by the tenant, and costs awarded in decrees for rent, will not be wiped out and the landlord will be entitled to recover them in addition to the rent for faslis 1346 and 1347.

In cases in which proceedings for the recovery of rent stood stayed by the Madras Estates Land Amendment Act (Madras Act VIII of 1934), the rent for fasli 1345 will also be due, though the date for the payment of that rent will be postponed to some extent.

All payments made by a tenant towards rent after the 22nd March 1938 should be credited to the rent for fasli 1347 in the first instance and to the rent for fasli 1346 in the next instance. The tenant is also entitled to pay into the court the amount considered by him to be due towards rent and ask the court for a declaration as to what amount is actually due from him.

C. J. PAUL,
Secretary to Government.

GOVERNMENT OF MADRAS
DEVELOPMENT DEPARTMENT

PRESS COMMUNIQUÉ.

Dated Fort St. George, the 6th May 1938.

The attention of 'agriculturist' debtors for whose benefit the Madras Agriculturists Relief Act, 1938, was enacted is drawn to the fact that they can set this law in motion by resort to Debt Conciliation Boards established under the Madras Debt Conciliation Act, 1936. The provisions of the Agriculturists Relief Act were fully explained in a Press Communiqué issued on the 30th March 1938. It does not appear, however, that the provisions of and the procedure under, the Debt Conciliation Act as applied to the conditions created by the provisions of the Agriculturists Relief Act are fully realized.

2. The salient features of the Debt Conciliation Act are—

- (1) The Act applies only to agriculturists whose debts exceed one hundred rupees;
- (2) It provides for the establishment of a Debt Conciliation Board for any district or even part of a district;
- (3) Creditors and debtors are brought together with a view to effect an amicable settlement of debts, application for such settlement being made either by the debtor himself or by any of his creditors. Thus the debtor can get a settlement of all his debts as scaled down by the Agriculturists Relief Act and get all his creditors summoned to appear before the Board, even though the creditors may be lying low without proceeding to sue the debtor, being unwilling to have their debts examined with reference to the Agriculturists Relief Act;
- (4) The Debt Conciliation Board persuades parties to come to an amicable settlement; but there is no longer difficulty as regards reduction of amount due as the law itself has achieved it;
- (5) If a settlement is agreed to by the parties it is recorded by the board and registered and then it has the same effect as the decree of a civil court and is executable as such;
- (6) If there is no settlement, the application is dismissed, but the board may issue a certificate to the debtor that the offer made by him to any creditor was, in its opinion, fair. In such cases, the creditor will not get the costs of his suit when he files one in a civil court or any interest on the principal amount due to him, in excess of simple interest at 6 per cent per annum, after the date of such certificate.

3. The procedure followed in the settlement of debts by a Debt Conciliation Board is briefly as follows :—

A debtor or any of his creditors may make an application for settlement of the debts giving the particulars mentioned in section 6 of the Act. On receipt of the application, the board fixes a date and place for hearing the application and the necessary notices are sent by registered post to the debtor and each of his creditors. If, after examining the debtor, the board considers it desirable to attempt to effect a settlement, a notice is issued calling upon all his creditors to submit statements with full particulars of the debts owed to them and to produce all documents including entries in books of account relied on by them. The debtor and each creditor are then required to explain their case regarding each debt and if there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor, the board decides the matter after taking such evidence as may be adduced by all the parties concerned and such decision is binding on all parties in all proceedings before the board. The provisions of the Agriculturists Relief Act by which the amount due as under the ordinary law is statutorily scaled down will necessarily be taken into account by the Conciliation Board and the debtor will be entitled to all the advantages thereof. The board then prepares a complete schedule of the creditors and of the assets and liabilities of the debtor. If the creditors to whom more than fifty per cent of the total amount of the debtor's debts is owing come to an amicable settlement with the

debtor, such settlement is reduced to writing in the form of an agreement which, if considered equitable by the board, is read out and explained to the parties concerned and then signed or otherwise authenticated by the board and the parties. The agreement is registered within 30 days by the Chairman of the board and it will then take effect, as if it were a decree of a civil court. If no amicable settlement is arrived at within 12 months from the date of application, the application is dismissed.

4. The Debt Conciliation Act was brought into force with effect from 1st January 1937. There are now six Debt Conciliation Boards working in the districts of Bellary, Coimbatore, Guntur, Nellore, Ramnad and South Arcot. The working of these boards so far has by no means been satisfactory. The creditor has been asking for his 'pound of flesh.' But with the passing of the Madras Agriculturists Relief Act, 1938, the position has changed; for under section 7 of that Act, debts payable by 'agriculturists' as defined in that Act, automatically stand scaled down in accordance with its provisions. This will in most cases be smaller than the amount mentioned in section 16 of the Debt Conciliation Act, 1936. The creditor cannot claim a pie more than what the Agriculturists Relief Act allows. There is no question now of persuading the creditor brought before a Debt Conciliation Board to agree to a voluntary reduction of his claim. The board has only to determine with reference to the provisions of the Agriculturists Relief Act, the amount due to each creditor. What is now required is that the debtor should move the board by making an application under the Act. On a single application by a debtor his entire liabilities to every one of his creditors will be examined. The board will bring together all the creditors and determine the amount due to each of them, thus saving the parties the difficulties and the expense involved in adjudication by civil courts. Further, an agreement will be drawn up under section 14 of the Debt Conciliation Act, which will be equitable in the circumstances of each case and accord as far as possible with the wishes and the convenience of the parties themselves. On the registration of the agreement, the execution of decrees in certain cases is stayed—vide section 18 (3) of the Debt Conciliation Act.

5. In view of these many advantages which the debtor stands to gain by moving a Debt Conciliation Board to scale down his debts under the Agriculturists Relief Act, debtors are advised to take advantage of these boards wherever they are in existence. The Government have under consideration the question of setting up additional Debt Conciliation Boards for the purpose in other areas.

C. J. PAUL,
Secretary to Government.



THE FORT ST. GEORGE GAZETTE

PUBLISHED BY AUTHORITY

No. 37] MADRAS, TUESDAY EVENING, SEPTEMBER 13, 1938. [PRICE, 5 as. 6 p.

Part I—Notifications by Government

CONTENTS

	PAGE		PAGE
Appointments, Confirmation, Leave, Permitted to retire, Permitted to return, Postings, Promotions, Resignation, Services placed ..	1298, 1299 1300, 1302, 1309, 1318, 1328	NOTIFICATIONS—cont.	
Rules and Orders:		Special Tests Examinations—Amendment ..	1299
Special rules regulating method of recruitment, etc., of certain services—Amendments ..	1298, 1299 1300, 1304, 1305, 1309-1310, 1320, 1321, 1329	Public (Reforms) Department Notification No. 20, dated 1st April 1937—Amendment ..	1300
Government Servants' Conduct Rules—Amendments ..	1300	Expenditure and revenue statement ..	1301
Madras Traffic Rules—Amendment ..	1304	Indian Christian Marriage Act ..	1303
Madras Motor Vehicles Rules—Amendments ..	1304	Towns Nuisances Act ..	1309
Rules under Madras Borstal Schools Act ..	1305-1309	Code of Criminal Procedure ..	1308
Madras Agriculturists' Loans (Relief of Indebtedness) Rules ..	1311-1317	Maintenance Orders Enforcement Act—Application to British India ..	1303
Indian Tea Control Act (Electoral) Rules—Amendment ..	1319	Criminal Tribes Act ..	1304
Importation of Plants (Amendment) Order ..	1319	Madras Estates Land Act ..	1309
Madras Payment of Wages Rules—Amendments ..	1320	Madras Survey and Boundaries Act ..	1317-1318
Rules under Madras Agriculturists Relief Act ..	1321-1322	Land Acquisition Act ..	1318
Indian Merchant Shipping (Load Line) Rules—Amendment ..	1337		1323-1328, 1332, 1334-1336
Indian Pilgrim Ships Rules—Amendments ..	1337	Governing Body of Indian Lac Cess Committee—Members appointed ..	1320
Withdrawal of powers ..	1302		1320
Investiture of powers ..	1302	Indian Lac Cess Committee—President appointed ..	1320
NOTIFICATIONS:		Madras Forest Service—Madras Reductions in Cadres of Services Rules—Application to certain posts of Extra Assistant Conservators of Forests ..	1321
His Excellency the Governor—Tour programme ..	1297	Madras Co-operative Land Mortgage Bank Act ..	1322-1323
Prince of Wales's Royal Indian Military College, Dehra Dun—Admission—Instructions—Press communique ..	1298	Madras Forest Act ..	1322-1323
Sea Customs Act ..	1298-1299	Bezwada Quarry accident—Press communique ..	1329
Local Fund Audit Department—Certain temporary posts of clerks—Conditions of service not suitable for regulation by rules ..	1299	Salem-Erode Electric Licence—Amendment ..	1329
Certain subject of Travancore State—Declaration of eligibility to hold appointment ..	1299	Amalapuram Electric Licence ..	1329-1332
		Canals and Public Ferries Act ..	1333
		Survey of India—List of maps published during July 1938 ..	1338
		SUPPLEMENTS:	
		Madras Factories Rules—Amendment—Tamil ..	
		Motor Vehicles Rules—Tamil and Kanarese ..	

MILITARY SECRETARY'S OFFICE.

NOTIFICATION.

No. 5.—Programme of His Excellency the Governor's visit to Mysore—September-October 1938.

1938.						
September 28 ..	Wednesday ..	Ootacamund ..	.. Departure	.. 9-0 a.m. ..	By motor.	Departure private.
" 29 ..	Thursday ..	Mysore ..	.. Arrival	.. 1-0 p.m. ..		Arrival private.
" 30 ..	Friday ..					
October 1 ..	Saturday ..					
" 2 ..	Sunday ..					
" 3 ..	Monday ..					
" 4 ..	Tuesday ..					
" 5 ..	Wednesday ..	Mysore ..	.. Departure	.. 2-30 p.m. ..	By motor.	Departure private.
		Ootacamund ..	.. Arrival	.. 6-30 p.m. ..		Arrival private.

Letters and telegrams intended for His Excellency and party should be addressed "Madras Governor's Camp, India," without the addition of any post town.

The party accompanying His Excellency will consist of—

The Lady Marjorie Erskine.
The Master of Erskine.
The Hon. Alastair Erskine.
The Hon. David Erskine.
The Hon. Robert Erskine.
Miss Duckworth.
Major T. F. Kelly, O.B.E., Military Secretary.

W. T. Bryant, Esq., I.C.S., Private Secretary.
Mrs. Bryant.
Lieut.-Col. C. C. Morrison.
Mrs. Morrison.
Major G. H. Cole, Aide-de-Camp.
Capt. E. T. R. Jenyns, Aide-de-Camp.
Capt. G. T. A. Douglas, Aide-de-Camp.

GOVERNMENT HOUSE, OOTACAMUND,
10th September 1938.

T. F. KELLY, Major,
Military Secretary.

OFFICE OF THE SECRETARY TO THE GOVERNOR OF MADRAS.

PRESS COMMUNIQUE.

Government House, Ootacamund, September 6, 1938.

No. 8.—

In connexion with the admission of candidates to the Prince of Wales's Royal Indian Military College, Dehra Dun, who desire subsequently to enter a cadet college with a view to obtaining commissions in the Indian Land Forces, the Indian Air Force or the Royal Indian Navy, full particulars regarding the aim and scope of the course of training, rules relating to admission to the College, fees, etc., will be published in the *Fort St. George Gazette*, on the 20th September, 4th and 18th October and 1st November 1938.

Copies of the "Regulations for the Prince of Wales's Royal Indian Military College, Dehra Dun," the "Regulations respecting admission to the Indian Military Academy, Dehra Dun," the "Regulations respecting entry of Indian Gentlemen to the Indian Air Force through the Royal Air Force College, Cranwell" and the "Regulations respecting recruitment, training, rates of pay, etc., of commissioned officers of the Royal Indian Navy" can be obtained from the Manager of Publications, Civil Lines, Delhi, price annas 2, 4, 4 and 4, respectively.

All applications should be submitted in the prescribed form in duplicate to the Private Secretary to His Excellency the Governor of Madras, Madras Governor's Camp, not later than the 10th November 1938. Applications received after that date will not be considered.

T. G. RUTHERFORD,
Secretary to the Governor.

PUBLIC DEPARTMENT.

(General.)

NOTIFICATION.

Fort St. George, September 7, 1938
[G.O. Ms. No. 1516, Public (General)].

No. 20.—The following notification of the Government of India is republished:—

FINANCE DEPARTMENT (CENTRAL REVENUES),
CUSTOMS.

Simla, the 27th August 1938.

No. 111.—In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878 (VIII of 1878), the Central Government is pleased to direct that the following amendment shall be made in the notification of the Government of India, Finance Department (Central Revenues), No. 34-Customs, dated the 29th May, 1937 namely:—

In part (b) of the said notification, for the words "International Press Correspondence" the words "World News and Views" shall be substituted.

H. M. HOOD,
Chief Secretary.

(Elections.)

NOTIFICATIONS.

Fort St. George, September 3, 1938
[G.O. Ms. No. 1500, Public (Elections)].

No. 173.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to issue the following amendment to the special rules published with Public (Elections) Department Notification No. 118, dated 21st June 1938, at pages 936-937 of Part I of the *Fort St. George Gazette*, dated 28th June 1938:—

AMENDMENT.

In the table under sub-rule (a) of rule 1 of the said rules, for the entry in column (2) against the entry in column (1) relating to the Revenue Divisional Officer's office, the entry "For a period of four months commencing from the date of appointment of the clerk" shall be substituted.

No. 174.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to issue the following amendment to the special rules published with Public (Elections) Department Notification No. 131, dated 28th June

1938, at pages 965-966 of Part I of the *Fort St. George Gazette*, dated 5th July 1938:—

AMENDMENT.

In the table under sub-rule (a) of rule 1 of the said rules, for the entry in column (2), the entry "For a period of four months commencing on the 1st July 1938 or the date of appointment of the clerk" shall be substituted.

H. M. HOOD,
Chief Secretary.

(Ecclesiastical.)

PERMITTED TO RETIRE.

Fort St. George, September 7, 1938.

No. 30.—The Rev. A. C. Trench, a Senior Chaplain on the Madras Ecclesiastical Establishment, has been permitted to retire from the service with effect from the 9th October 1938.

NOTIFICATION.

Fort St. George, September 3, 1938
[G.O. Ms. No. 1499, Public (Ecclesiastical)].

No. 31.—The following notification of the Government of India is republished:—

DEFENCE DEPARTMENT.

ECCLIASTICAL.

Part B.

The 20th August 1938.

No. 902.—The Reverend George Joseph Howard is appointed to be a Chaplain on probation to the Indian Ecclesiastical Establishment to fill a vacancy in the Madras Diocese.

H. M. HOOD,
Chief Secretary.

(Political.)

NOTIFICATIONS.

Fort St. George, September 13, 1938.

No. 62.—The following notifications of the Government of India are republished:—

DEFENCE DEPARTMENT.

(ARMY BRANCH.)

Part B.

Simla, the 27th August 1938.

No. 952.—The following appointments are made:—

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

PRESS COMMUNIQUE.

Dated Fort St. George, 15th September 1938.

[Advances—Loans—Relief of indebtedness—Rules.]

In the Budget Estimate for 1938-39, the Government have provided a sum of Rs. 50 lakhs for the disbursement of loans to agriculturists for the relief of indebtedness. The question as to the rules and procedure under which this should be utilized has been carefully examined in consultation with the Revenue Board. As a result the rules previously issued for the disbursement of loans for the relief of indebtedness have been entirely recast with reference to the provisions of the Madras Agriculturists Relief Act, 1938, and the revised rules, will be published in the *Fort St. George Gazette*, of the 13th instant and will come into force on 1st October 1938. The main provisions of these rules are summarized below for the information of the general public.

2. Loans for the relief of indebtedness may be granted only to agriculturists, as defined in the Madras Agriculturists Relief Act, 1938, who own lands or the occupancy right in lands, the value of which, free of encumbrances, does not exceed Rs. 5,000. A loan will ordinarily be granted only for satisfying a decree or order for the repayment of a debt passed by a civil court or Debt Conciliation Board in accordance with the Madras Agriculturists Relief Act, 1938. In any revenue division, however, in which no separate Debt Conciliation Board has been established, the loans officer may scale down an undecreed debt in accordance with the provisions of the above Act provided that both the creditor and the debtor consent and provided that there is a *prima facie* probability of a loan for the discharge of the debt so scaled down being permissible under the scheme.

3. Loans will be granted only on the security of immovable property belonging to the applicant. Every applicant will be required to make a full disclosure of all his debts. Loans will be granted only to discharge either the entire debts of the applicant, or for a portion of the debts of the applicant, in cases in which the discharge of such portion of the debts would cancel the total encumbrance on a definable part of his property. In all cases, however, loans will be granted only where the scaled down debt to be so discharged does not exceed Rs. 1,000 or fall below Rs. 100.

The rate of interest will be $6\frac{1}{4}$ per cent per annum and the loans will be repayable by equal annual instalments discharging both principal and interest. The first instalment will be payable not later than twelve months from the date of disbursement of the loan. The loan should be repaid in not more than 20 instalments ordinarily or 30 in special cases, the number of instalments being fixed in each case by the Loans Officer with regard to the repaying capacity of the borrower.

4. The following officers will be competent to grant loans up to the amounts specified against them :—

Revenue Divisional Officers	... ..	Rs. 1,000.
Tahsildars	... ..	Rs. 500.
Deputy Tahsildars in independent charge.	... ..	Rs. 250, and when specially empowered by the Collector, Rs. 500.
Other Deputy Tahsildars when specially empowered by the Collector	... ..	Rs. 250.

Where Special Tahsildars or Special Deputy Tahsildars are appointed for the disbursement of loans the Collector may empower them to grant loans up to Rs. 1,000.

5. Every application for a loan under these rules should be made to the local officer competent to sanction the loan in the prescribed form which may be obtained free of charge from Revenue Inspectors and village headmen. The application should be accompanied by a copy of the decree or order (if any), of the civil court or Debt Conciliation Board, scaling down the debt. Where no such decree or order has been passed and where there is no separate Debt Conciliation Board for the revenue division concerned, the applicant should forward a statement signed by the creditor agreeing to the scaling down of the debt by the Loans Officer. The applications and statements of illiterate persons should bear their marks, which should be attested by two respectable witnesses.

B. G. HOLDSWORTH,
Secretary to Government.

GOVERNMENT OF MADRAS.
Development Department.

PRESS NOTE

No.7

Dated, Fort St. George, the 6th December 1938.

There is a feeling in certain quarters that consequent on the passing of the Debt Relief Act, the ryots are not able to command as much ready money as possible, to meet their agricultural requirements and that this has caused more hardship to the ryots now than before. It has been suggested that the best agency to fill up the void is the co-operative credit society and that therefore co-operative societies should be strengthened and reorganised with a view to afford financial help to the ryots to meet their several demands. Co-operators, official and non-official, have recognised this fact and have been striving to supply the necessary finance for the agricultural needs of the ryots. The transactions in societies are increasing. New societies are being registered and the area of existing societies widened to bring within the societies as large a number of ryots as possible. Loans are also given to members to enable them to hold up their produce for a favourable market and effect their sale through sale societies. That the ryots are resorting to the societies more frequently than before will be evident from the fact that from the date of passing of the Agriculturists Relief Act to 31st July, the Central Banks in the Presidency have issued loans to the extent of Rs.47.08 lakhs to agricultural credit societies and Rs.29.64 lakhs to sale societies as against Rs.36.40 lakhs and Rs.13.14 lakhs to agricultural credit societies and sale societies respectively during the corresponding period of the previous year. Since the close of the year ending June 1938, 211 societies have been registered and the officers are registering societies in all places where there is genuine demand for them. Central Banks besides reducing their rates of interest which are now

which are now between 4 to 5 $\frac{1}{2}$ % are also paying greater attention to the rehabilitation of existing societies and to increase their usefulness to the members.

There is no dearth of money within the movement. Central Banks have not experienced any difficulty so far in meeting the growing demands and the Provincial Bank has enough funds for being lent to the societies. It is not, therefore, necessary to offer higher rates of interest on deposits by Central Banks as even at the existing rates the movement commands adequate resources to finance agriculture. A higher rate of interest will only result in an increased cost of the loan which will ultimately affect the ryot. There is, therefore, plenty of cheap money available for supply to the ryots for their current and seasonal demands and members are freely making use of the societies. There can therefore be no cause for complaint that credit in any way has been curtailed. All facilities are afforded to the ryot towards the achievement of this end.

Fort St. George,

Dated 6th December 1938.

C. J. Paul,

Secretary to Government.

GOVERNMENT OF MADRAS
DEVELOPMENT DEPARTMENT

PRESS COMMUNIQUE.

Dated Fort St. George, the 16th November 1938.

The Madras Agriculturists' Relief Act, 1938, providing for the relief of indebted agriculturists in this Province was brought into force on the 22nd March 1938. The rules under the Act were published on the 24th March 1938. The following two statements show the working of the Act and the nature and extent of the relief afforded to indebted agriculturists thereunder by all civil courts in the Presidency during each of the months of May, June, July and August 1938 and during the period of six months ending with August 1938. The statements do not of course cover cases of voluntary settlement by parties without going to court.

STATEMENT NO. I.

Statement showing the working of the Madras Agriculturists' Relief Act, 1938, for the months of May, June, July and August 1938.

Description of Items.	May 1938.	June 1938.	July 1938.	August 1938.
Number of cases pending at the beginning of the month	7,371	9,089	16,900	19,209
Number of cases received during the month	3,001	14,412	12,595	10,541
Number of cases to which the Act was applied <i>suo motu</i> by courts	6	37	26	35
Number of cases omitted to be included in the previous month	60	..	..	..
Total	10,438	23,539	29,521	29,785
Number of cases disposed of during the month—				
Under section 8—				
Number	153	521	1,082	1,191
Amount involved	Rs. 53,475-2-0	2,33,854-10-6	6,47,714-15-9	7,90,396-12-10
Amount as scaled down .. .. .	.. 32,261-3-6	1,23,482-7-7	3,42,606-5-7	3,96,405-3-0
Under section 9—				
Number	132	487	866	1,011
Amount involved	Rs. 26,302-9-7	1,03,183-11-2	2,35,536-8-6	2,46,453-14-5
Amount as scaled down .. .. .	.. 18,253-13-0	69,867-11-7	1,67,963-11-3	1,83,087-1-0
Under section 13—				
Number	32	31	94	76
Amount of interest involved	Rs. 2,601-0-0	2,845-0-0	10,731-0-0	5,939-0-0
Amount of interest as scaled down .. .. .	.. 701-0-0	1,121-8-0	3,097-0-0	3,075-0-0
Under section 18 (1)—				
Number	25	128	200	241
Amount of costs involved	Rs. 1,339-0-0	5,048-2-3	14,112-2-2	49,694-12-3
Amount of costs as scaled down .. .. .	.. 1,121-0-0	3,692-15-7	9,935-12-6	26,736-3-3
Under section 19—				
Number	54	620	2,385	3,852
Amount as originally decreed	Rs. 28,862-2-6	2,28,651-8-10	13,06,329-11-11	29,34,247-13-11
Amount as scaled down in the amended decree .. .. .	.. 22,729-10-2	1,36,367-13-9	7,33,629-5-3	13,77,766-11-10
Under section 20—				
Number	888	4,364	4,768	3,659
Under section 21—				
Number .. .. .	..	12	15	11
Amount involved .. .. .	..	15,777-8-10	5,291-2-9	2,928-1-2
Amount as scaled down .. .. .	..	11,716-5-10	3,038-0-0	2,147-2-1
Under section 22—				
Number .. .. .	..	..	2	2
Amount refunded .. .. .	..	..	240 0 0	..
Under section 23—				
Number	71	485	929	634
Total number of cases disposed of during the month	1,355	6,648	10,321	10,677
Add—(a) Number of cases disposed of under section 15 .. .. .	..	24	48	45
(b) Number of cases disposed of otherwise than under the Act .. .. .	..	7	38	38
Deduct—Number of cases disposed of under more than one section of the Act	6	40	95	70
Net number of cases disposed of during the month	1,349	6,639	10,312	10,685
Number of cases pending at the close of the month	9,089	16,900	19,209	19,100

STATEMENT NO. II.

Statement showing the working of the Madras Agriculturists' Relief Act, 1938, during the half-year ending with August 1938.

Number of cases pending at the beginning of the half-year	516
Number of cases received during the half-year	54,449
Number of cases to which the Act was applied <i>suo motu</i> by courts	140
Total	55,105
Number of cases disposed of during the half-year—	
Under section 8—	
Number	3,621
Amount involved	Rs. 20,83,768-9-1
Amount as scaled down	„ 10,69,255-11-9
Under section 9—	
Number	3,169
Amount involved	Rs. 7,43,773-11-11
Amount as scaled down	„ 5,32,818-0-5
Under section 13—	
Number	351
Amount of interest involved	Rs. 31,101-5-3
Amount of interest as scaled down	„ 10,124-12-4
Under section 18 (1)—	
Number	760
Amount of costs involved	Rs. 78,608-12-3
Amount of costs as scaled down	„ 48,152-1-0
Under section 19—	
Number	7,023
Amount as originally decreed	Rs. 46,42,686-13-9
Amount as scaled down in the amended decree	„ 23,65,523-7-10
Under section 20—	
Number	18,746
Under section 21—	
Number	98
Amount involved	Rs. 29,849-2-0
Amount as scaled down	„ 18,735-7-11
Under section 22—	
Number	6
Amount refunded	Rs. 240
Under section 23—	
Number	2,313
Total amount involved in applications disposed of under sections 8, 9, 13, 18 (1), 19 and 21 during the half-year	Rs. 76,09,788-6-3
Total amount as scaled down during the half-year	„ 40,44,609-9-3
Total amount of reduction by scaling down and its percentage to the amount originally due	„ 35,65,178-13-0 or 47 per cent.
Total number of cases disposed of during the half-year	36,086
Add—Number of cases disposed of under section 15 of the Act	117
Number of cases disposed of otherwise than under the Act	81
Deduct—Number of cases disposed of under more than one section of the Act	279
Net number of cases disposed of during the half-year	36,005
Number of cases pending at the close of the half-year	19,100

C. J. PAUL,
Secretary to Government.

INDIAN TERRITORIAL FORCE.

The undermentioned officers are confirmed in their rank :—

5 Bn., U.T.C.

Dated 3rd Sep. 1935.

2nd Lt. Syed Abdul Qadir.
2nd Lt. Srirangam Parthasarathy.

No. 956.—The following promotions are made :—

INDIAN TERRITORIAL FORCE.

5 Bn., U.T.C.

2nd Lts. to be Lts.
Dated 3rd Dec. 1937.

Syed Abdul Qadir.
Srirangam Parthasarathy.

No. 961.—The undermentioned officers resign their commissions :—

INDIAN TERRITORIAL FORCE.

The Madras I.T.F. Med. Corps.

Maj. Madras Ramaswami Guruswami Mudaliar, M.B.
Dated 15th July 1938, with permission to retain his rank and wear the uniform of his Corps on resignation.

Fort St. George, September 10, 1938.

No. 63.—The following notification of the Government of India is republished :—

EXTERNAL AFFAIRS DEPARTMENT.

Simla, the 29th August 1938.

No. 211-G.—The Governor-General in Council is pleased to recognize the appointment of Mr. H. G. P. Woodroffe as Acting Honorary Consul for Norway at Madras.

H. M. HOOD,
Chief Secretary.

(Services.)

NOTIFICATIONS.

Fort St. George, September 1, 1938

[G.O. Ms. No. 1495, Public (Services)].

No. 443.—

Under the proviso to sub-section (2) of section 241 of the Government of India Act, 1935, and in supersession of Public (Services) Department Notification No. 77, dated 11th February 1936, at page 252 of Part I of the Fort St. George Gazette, dated the 22nd February 1938, His Excellency the Governor considers that the conditions of service of the undermentioned establishment are matters not suitable for regulation by rule :—

Temporary establishment of 25 clerks employed for a period of nine months commencing on the 1st April 1938 for the disposal of arrears of work in the Local Fund Audit Department.

Fort St. George, September 2, 1938

[G.O. Ms. No. 1496, Public (Services)].

No. 444.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following amendment to the special rules published with Public (Services) Department Notification No. 123, dated 10th March 1938, at page 355 of Part I of the Fort St. George Gazette, dated the 15th March 1938 :—

AMENDMENT.

In rule 1 of the said rules, for the expression "six months," the expression "one year and six months" shall be substituted.

Fort St. George, September 2, 1938.

[G.O. Ms. No. 1497, Public (Services)].

No. 445.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following amendment to the special rules published with Public (Services) Department Notification No. 129,

dated 12th March 1938, at page 407 of Part I of the Fort St. George Gazette, dated the 22nd March 1938 :—

AMENDMENT.

In rule 1 of the said rules, for the expression "six months," the expression "one year and six months" shall be substituted.

Fort St. George, September 3, 1938

[G.O. Ms. No. 1502, Public (Services)].

No. 446.—

In exercise of the power conferred by sub-section (2) of section 262 of the Government of India Act, 1935, His Excellency the Governor is pleased to declare that A. Winjars Assir Sahib, a subject of the Travancore State, is eligible to hold any appointment in the Madras Co-operative Subordinate Service and the Madras Co-operative Service.

2. The declaration hereby made shall be deemed to have been made and to have come into force on and from 1st April 1938.

Fort St. George, September 5, 1938

[G.O. No. 1507, Public (Services)].

No. 447.—

In the Special Tests Notification published with Public (Services) Department Notification No. 644, dated 29th November 1937, at pages 2098 to 2110 of Part I of the Fort St. George Gazette, dated 21st December 1937; as subsequently amended, in the "Schedule showing the offices or appointments for which the Special Tests are severally prescribed," for the word "Sembiam" in item 73, under "The Account Test for Subordinate Officers, Part I," the word "Chintaladevi" shall be substituted.

Fort St. George, September 3, 1938

[G.O. No. 1503, Public (Services)].

No. 448.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following amendment to the special rules for the Madras Jail Subordinate Service published with Public (Services) Department Notification No. 809, dated the 11th May 1938, at pages 939-943 of Part I of the Fort St. George Gazette, dated the 28th June 1938 :—

AMENDMENT.

In Annexure I to the said rules, in the qualifications specified in column (3) for appointment to the service in Class VI—

(1) for items (i) and (ii), the following item shall be substituted, namely :—

"(i) A successful course of such training as may from time to time be prescribed by the Provincial Government, and"; and

(2) item (iii) shall be renumbered (ii).

Fort St. George, September 6, 1938

[G.O. No. 1509, Public (Services)].

No. 449.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor, is hereby pleased to make the following amendments to the Government Servants' Conduct Rules, 1936, published with Public (Services) Department Notification No. 47, dated the 18th December 1936, at pages 212 to 234 of Part I of the Fort St. George Gazette, dated the 2nd February 1937, as subsequently amended :—

AMENDMENTS.

I

For rule 17 of the said rules, the following rule shall be substituted, namely :—

"17. Discussion of the policy or action of Government.—No Government servant shall by any utterance, writing or otherwise, discuss or criticize in public or at any meeting of any association or body, any policy pursued or action taken by the Government, nor shall he in any manner participate in any such discussion or criticism:

Provided that nothing contained in this rule shall be deemed to prohibit

(1) any Government servant from participating in discussions at any private meeting solely of Government servants or of any recognized association of Government servants, of matters which affect the personal interests of such servants individually or generally; or

(2) any Government servant from defending and explaining in public or private meetings any policy or action of the Government for the purpose of removing misapprehensions and correcting mis-statements or for the purpose of effectively carrying out such policy.

Explanation.—Nothing contained in this rule shall be construed to limit or abridge the power of the Government to require any Government servant to publish and explain any policy or action of the Government in such manner as may appear to them to be expedient or necessary.

II

In rule 18 of the said rules—

- (1) In sub-rule (1)—
- (i) for the words "under his own name" the words "by him" shall be substituted; and
- (ii) for the words "in any communication made to the press under his own name," the words "in any communication made by him to the press" shall be substituted; and
- (2) in sub-rule (2), the words "under his own name" occurring in two places shall be omitted.

Fort St. George, September 6, 1938
[G.O. Ms. No. 1512, Public (Services)].
No. 450.—

In exercise of the powers conferred by sub-section (3) of section 175 of the Government of India Act, 1935, His Excellency the Governor is pleased to direct that the following further amendment shall be made in the Public (Reforms) Department Notification No. 20, dated the 1st April 1937, published at pages 12-13 of *Fort St. George Gazette Extraordinary*, dated the 1st April 1937, namely:—

AMENDMENT.

In item 28 of the said notification, in the entries in the second column, after the words "by Executive Engineers," the words "and Assistant Engineers" shall be inserted.

Fort St. George, September 7, 1938
[G.O. Ms. No. 1520, Public (Services)].
No. 451.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following amendment to the special rules published with Public (Services) Department Notification No. 267, dated 1st June 1938, at page 801 of Part I of the *Fort St. George Gazette*, dated the 7th June 1938:—

AMENDMENT.

In rule 1 of the said rules, for the expression "for a period of three months commencing on the date of appointment of the shorthand-typist," the following expression shall be substituted, namely:—

"for the period commencing on the date of appointment of the shorthand-typist and ending on the 31st October 1938."

Fort St. George, September 7, 1938
[G.O. Ms. No. 1519, Public (Services)].

No. 452.—In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following amendment to the special rules published with Public (Services) Department Notification No. 114, dated the 27th February 1937, at page 417 of Part I of the *Fort St. George Gazette*, dated the 9th March 1937, as subsequently amended:—

AMENDMENT.

For the entries in the Table in rule 1 of the said rules, the following entries shall be substituted, namely:—

Category.	Posts.	Period.
(1)	(2)	(3)
1	One Superintendent ..	Three years and six months from the date of employment.
3	One Upper Division clerk.	Three years and six months from the date of employment.
5	One Steno-typist ..	One year from 1st April 1937.

PRESS COMMUNIQUE.

Fort St. George, September 6, 1938.

No. 453.—The following is published for general information:—

1. The Secretary of the International Fellowship of Vellore has addressed a letter to Government

raising question as to the exact scope of the prohibition contained in G.O. No. 1554, Public (Services), dated the 23rd September 1936. The position was made clear in reply to a question in the Madras Legislative Assembly in September last. The question was fully considered once again upon a letter from the said organization to the Hon'ble the Prime Minister, dated the 26th February 1938, and the position was explained to the Association in a reply from the Chief Secretary.

2. The Government desire to make it clear once again that they have not the slightest doubt or suspicion about the character and work of the International Fellowship which they are aware are entirely praiseworthy. There is no ban on the organization in the sense that it is subjected to any disqualification in law, nor was the Association brought under any kind of displeasure or suspicion of the Government in respect of its activities. The Government are of opinion, however, that it is not possible to change the rule as regards the conduct of permanent servants of the Government, which prohibits their participation in politics and in the discussion in public or in meetings of associations, of the policies of the Government. The Government are of opinion that for the proper discharge of their duties, Government servants should abstain from such discussions. It, therefore, follows that no permanent servant of the Government can be a member of any association or organization whose activities normally include such discussion. This rule would operate not only in respect of the International Fellowship, but in respect of any association whose work similarly covers politics and the discussion of Government policies in mixed company.

3. There can be no objection, however, to any Government servant participating in or associating with any of the non-political activities of the Fellowship or its branches and such association or participation cannot be deemed a breach of the rules of conduct of Government servants.

H. M. HOOD,
Chief Secretary.

(Special.)

APPOINTMENTS.

Fort St. George, September 3, 1938.

No. 238.—Mr. M. Seshadri, I.C.S., Acting District and Sessions Judge, East Tanjore, on relief by Mr. M. Karamatullah, I.C.S., to act as Additional Sessions Judge, Tinnevely.

[This cancels Public (Special) Department Notification No. 231, dated 17th August 1938, published on page 1205 of Part I of the *Fort St. George Gazette*, dated 23rd August 1938.]

Fort St. George, September 5, 1938.

No. 239.—Mr. P. Rajagopalan, I.C.S., on return from leave, to be District and Sessions Judge, South Arcot.

No. 240.—Sri P. K. Ramunni Menon, Acting District and Sessions Judge, South Arcot, on relief, to act as District and Sessions Judge, Guntur, in relief of Sri M. V. Hayagriva Rao granted leave.

[This cancels Public (Special) Department Notification No. 221, dated 9th August 1938, published on page 1176 of Part I of the *Fort St. George Gazette*, dated 16th August 1938.]

Fort St. George, September 10, 1938.

No. 241.—Mr. C. E. Jones, C.I.E., I.C.S., on return from leave, to be Secretary to Government in the Finance Department.

PERMITTED TO RETURN.

Fort St. George, September 7, 1938.

No. 242.—Mr. D. D. Warren, I.C.S., is permitted to return to duty on or about the 3rd January 1939 before the expiry of his leave.

SERVICES PLACED.

Fort St. George, September 10, 1938.

No. 243.—The services of Mr. C. A. Henderson, C.S.I., V.D., I.C.S., are placed at the disposal of the Government of India in the Department of Education, Health and Lands for appointment as Agent of the Government of India in Burma.

H. M. HOOD,
Chief Secretary.

FINANCE DEPARTMENT.

NOTIFICATION.

Fort St. George, September 13, 1938.

No. 88.—

STATEMENT OF THE RECEIPTS AND DISBURSEMENTS OF THE GOVERNMENT
OF MADRAS FOR JULY 1938.

[In thousands of Rupees.]

Heads of account. (1)	For July.		Progressive to end of July.		Revised Estimates, 1937-1938. (6)	Budget Estimates, 1938-1939. (7)
	1937-1938. (2)	1938-1939. (3)	1937-1938. (4)	1938-1939. (5)		
REVENUE—						
Income tax .. .. .	..	..	..	..	24.45	20.55
Land Revenue	5.00	4.74	1,79.93	1,75.43	4,99.71	4,99.21
Provincial Excise	36.00	33.21	1,31.43	1,22.08	4,02.68	3,88.93
Stamps	22.76	17.13	63.97	51.45	1,89.02	1,86.01
Forest	6.51	4.61	14.80	11.96	50.98	45.08
Registration	3.36	3.14	11.82	11.18	33.76	37.03
Receipts under Motor Vehicles Acts	11.37	17.32	24.51	37.00	54.66	54.66
Irrigation—Gross Receipts	1.45	1.59	3.22	3.09	2,27.14	2,28.47
Deduct—Working Expenses	— 3.82	— 3.50	— 13.12	— 13.02	— 42.73	— 40.12
Interest Receipts	55	78	8.08	8.14	19.73	20.88
Civil Works	1.24	2.01	3.47	3.91	26.82	26.88
Electric Schemes—Gross Receipts	2.67	3.46	9.93	13.89	30.81	39.43
Deduct—Working Expenses	— 18	— 88	— 65	— 7.83	— 15.44	— 17.77
Other Heads	9.22	8.29	24.20	24.52	1,11.46	1,08.97
Total (A) ..	86.13	82.42	4,61.59	4,41.78	16,13.04	15,98.21
EXPENDITURE CHARGED TO REVENUE—						
Direct Demands on the Revenue	16.27	16.95	45.94	46.16	1,82.80	1,80.52
Irrigation Expenditure	3.40	3.16	11.68	8.86	1,29.58	1,23.05
Debt Services	1	7	5	29	— 41.64	— 30.00
General Administration	22.43	22.83	87.57	88.23	2,93.72	2,91.67
Administration of Justice	8.06	7.26	29.82	28.21	93.98	95.58
Jails and Convict Settlements	2.40	2.11	7.32	7.71	24.06	23.89
Police	13.08	12.92	50.46	49.41	1,61.89	1,61.39
Education	19.07	17.97	59.78	66.61	2,58.71	2,61.57
Medical and Public Health	8.71	9.59	32.93	34.35	1,27.87	1,36.86
Agriculture, Veterinary, Co-operative Credit and Industries.	5.18	5.76	19.26	20.15	74.97	75.73
Civil Works	10.30	10.57	27.42	29.71	1,38.24	1,24.59
Pensions	8.05	8.92	30.03	26.84	1,03.95	96.02
Other Heads	3.86	10.01	(b) 12.96	31.03	77.22	67.22
Total (B) ..	1,20.91	1,28.12	4,15.22	4,37.56	16,10.35	15,98.09
Surplus (+) or Deficit (—) in the Revenue Account [(A) — (B)]. (C).	— 34.78	— 45.70	+ 46.37	+ 4.22	+ 2.69	+ 12
CAPITAL ACCOUNTS (EXPENDITURE) NOT CHARGED TO REVENUE. (D) ..	10.85	9.44	31.73	25.16	1,55.42	1,34.26
DEBT HEADS—						
Permanent Debt (Net) .. .. .	..	..	..	..	+ 1,64.03	+ 1,72.50
Treasury Bills (Net) .. .. .	..	..	..	..	..	..
Ways and Means Advances (Net) .. .. .	..	..	..	..	..	..
Deposits of Local Funds	+ 7.15	— 11.94	— 81.52	— 78.33	— 31.00	— 2.00
Departmental and Judicial Deposits— Civil Deposits	— 2.81	+ 68	— 29.19	— 12.36	— 16.83	— 3.60
Cash Balance Investment Account	+ 34.99	+ 54.74	..	+ 49.77	..	..
Loans and Advances by Provincial Government (Net).	— 1.83	— 82	+ 3.58	+ 4.12	— 25.33	— 82.98
Other Debt Head Transactions (Net).	— 4.94	— 4.10	+ 2.46	— 8.89	+ 35.99	+ 4.91
Total (E) ..	+ 82.70	+ 38.56	— 1,04.67	— 45.69	+ 1,36.86	+ 88.89
Total Transactions (C) — (D) + (E) ..	— 12.93	— 16.58	— 90.08	— 66.83	— 15.87	— 45.31
Opening Balance	48.65	86.82	1,25.75	1,36.87	1,25.75	1,09.88
Closing Balance	35.72	(a) 70.24	35.72	(a) 70.24	1,09.88	64.57

(a) With the Reserve Bank of India 63.62
At Provincial Treasuries (including cash in transit) 6.62
Total 70.24

(b) Includes 3.01 under commutation of Pensions, the expenditure on which during the current year is debited to Capital Accounts (Expenditure) not charged to Revenue.

C. K. VIJAYARAGHAVAN,
Secretary to Government.

HOME DEPARTMENT.

LEAVE.

Fort St. George, September 10, 1938.

No. 1040.—Sri Rao Bahadur K. P. Janardhana Rao, Deputy Commissioner of Police, Crime Branch, Madras City, leave on average pay for one month from 20th September 1938.

PROMOTION.

Fort St. George, September 8, 1938.

No. 1041.—Mr. W. H. Wright, District Superintendent of Police, Ordinary grade, to be Officiating District Superintendent of Police, Selection grade, with effect from 9th September 1938, *vice* Mr. J. Beckett, promoted to officiate as Deputy Inspector-General of Police.

WITHDRAWAL OF POWERS.

Fort St. George, September 7, 1938.

No. 1042.—Under the provisions of section 41 of the Code of Criminal Procedure, 1898, the Government of Madras withdraw the powers of a special magistrate for the area comprised within the jurisdiction of the Bench of Magistrates at the place specified against her name conferred on the undermentioned person:—

Mrs. K. Sathianadhan (who has resigned her appointment)—Vizianagram in the district of Vizagapatam.

INVESTITURE OF POWERS.

No. 1043.—Under section 357 of the Code of Criminal Procedure, 1898, the undermentioned Deputy Collectors and First-class Magistrates posted in the districts specified against their names are authorized to take down the evidence of witnesses with their own hand in the English language:—

Syed Abdus Subhan Sahib Bahadur—Tanjore.
Sri S. G. Grubb—Coimbatore.
Sri S. Virupaksha Chetti—Guntur.

Fort St. George, September 6, 1938.

No. 1044.—Under section 12 of the Code of Criminal Procedure, 1898, the undermentioned officer in the district specified against his name is appointed to be a Magistrate of the third class, and under section 37 he is invested with all the powers specified in the fourth schedule as powers which the Government may confer on a magistrate of that class:—

Sri Venuturupalli Venkateswarulu, Taluk Head Accountant, Patapatnam—Vizagapatam.

Fort St. George, September 5, 1938.

No. 1045.—Under section 12 of the Code of Criminal Procedure, 1898, the undermentioned officers in the districts specified against their names are appointed to be magistrates of the second class, and under section 37 they are invested with all the powers specified in the fourth schedule as powers which the Government may confer on a magistrate of that class except the powers to record statements and confessions under section 164, to authorize the detention of accused persons in the custody of the police under section 167 and to pass orders as to first offenders under section 562, Criminal Procedure Code:—

Mohammad Ibrahim Sahib Bahadur, Deputy Tahsildar-Magistrate, Chintalapudi—West Godavari.

Fort St. George, September 6, 1938.

Sri Chitrana Viraswami Sitarama Nayudu, Additional Head Clerk, Collector's Office, Tanjore—Tanjore.
Sri Bekal Narayana Rao, Stationary Sub-Magistrate, Karkal—South Kanara.

Fort St. George, September 5, 1938.

No. 1046.—Under section 12 of the Code of Criminal Procedure, 1898, the undermentioned officer in the district specified against his name is appointed to be a magistrate of the second class, and under section 37 he is invested with all the powers specified in the fourth schedule as powers which the Government may confer on a magistrate of that class except the powers to record statements and confessions under section 164, to authorize the detention of accused persons in the custody of

the police under section 167 and to pass orders as to first offenders under section 562 (1), Criminal Procedure Code:—

Sri P. C. Manickam Pillai, Sub-Magistrate, Salem Town—Salem.

No. 1047.—In exercise of the powers conferred by section 3 of the Opium Act, 1878 (I of 1878), the Government of Madras are hereby pleased specially to empower the undermentioned second-class magistrate in the district of Salem to try cases under the said Act:—

Sri P. C. Manickam Pillai.

No. 1048.—Under section 14 of the Code of Criminal Procedure, 1898, the Government of Madras are pleased to appoint the undermentioned gentleman to be a Special Magistrate for the area specified against his name, for the term of his appointment as Station-master, Trivandrum Central Station, and to confer on him such of the ordinary and additional powers of a magistrate of the third class as are specified hereunder in respect to offences under sections 3 to 5, both inclusive of the Towns Nuisances Act, 1889, which may be committed within that area:—

Name.	Local area in which powers are to be exercised.
Sri P. S. Govindasamy Ayyar.	The railway lands lying between 512/2 on the Quilon-Trivandrum section and the Trivandrum Central Station terminus towards the East.

I. Ordinary powers.—Schedule III of the Code of Criminal Procedure, 1898, section 1. Items 1 to 9, 14, 15 and 17 to 20.

II. Additional powers.—Schedule IV of the Code of Criminal Procedure, 1898. Items 4 and 5 of the powers conferable by the Government of Madras on a magistrate of the third class.

No. 1049.—Under section 357 of the Code of Criminal Procedure, 1898, the undermentioned officers in the districts specified against their names are authorized to take down the evidence of witnesses with their own hand in the English language:—

Sri A. Totadri Ayyangar, Second-class Magistrate—Tinnevely.

Fort St. George, September 9, 1938.

Mr. M. Karamatullah, I.C.S., District and Sessions Judge (posted)—East Tanjore.
Mr. M. Seshadri, I.C.S., Additional Sessions Judge (posted)—Tinnevely.

No. 1050.—Under section 167 of the Code of Criminal Procedure, 1898, as amended by the Criminal Procedure Code Amendment Act, XVIII of 1923, the undermentioned second-class magistrates in the districts noted against their names are empowered to authorize the detention of accused persons in the custody of the police:—

Sri K. Kelu Adiyoti—Malabar.
Sri A. Totadri Ayyangar—Tinnevely.

No. 1051.—In exercise of the powers conferred by section 3 of the Opium Act, 1878 (I of 1878), the Government of Madras are hereby pleased specially to empower the undermentioned second-class magistrate in the district of Malabar to try cases under the said Act:—

Sri K. Kelu Adiyoti.

No. 1052.—Under section 4 of the Madras Children Act, 1920 (Madras Act IV of 1920), the Government of Madras are hereby pleased specially to authorize the undermentioned second-class magistrate in the district noted against his name to exercise all the powers conferred on a Court by the said Act:—

Sri A. Totadri Ayyangar—Tinnevely.

No. 1053.—In exercise of the powers conferred by section 3 of the Opium Act, 1878 (I of 1878), the Government of Madras are hereby pleased specially to empower the undermentioned second-class magistrate in the district of Tinnevely to try cases under the said Act:—

Sri A. Totadri Ayyangar.

MARRIAGE LICENCES.

Fort St. George, September 3, 1938.

No. 1054.—Under section 9 of the Indian Christian Marriage Act, 1872, the Government of Madras sanction the issue of licences to the undermentioned gentlemen to grant certificates of marriage between Indian Christians in accordance with the provisions of the said Act, within the territories comprising the Province of Madras:—

The Reverend Kodamala Lazarus of the American Baptist Telugu Mission, residing at Donakonda in the taluk of Darsi in the district of Nellore.

Fort St. George, September 9, 1938.

Sri Chundi Samuel of the American Baptist Telugu Mission, residing at Ponnalur in the taluk of Kandukur in the district of Nellore.

Sri Senigalagudur Shanthayya of the Telugu Church Council of the South India United Church, residing at Tadpatri in the taluk of Tadpatri in the district of Anantapur.

Fort St. George, September 5, 1938.

No. 1055.—Under section 6 of the Indian Christian Marriage Act, 1872, the Government of Madras sanction the issue of a licence to the undermentioned gentleman to solemnize marriages within the territories comprising the Province of Madras, in accordance with the provisions of the said Act:—

The Reverend John J. Banninga of the South India United Church (American Madura Mission), residing at Pasumalai in the taluk of Madura in the district of Madura.

ERRATUM.

Fort St. George, September 3, 1938.

In Home Department Notification No. 572, dated 14th February 1938, published at page 628 of Part I of the Fort St. George Gazette, dated 3rd May 1938, in item (2) (a), between the words "plaint," and "petition," insert the words "written statement containing a counter-claim".

NOTIFICATIONS.

Fort St. George, September 5, 1938.

No. 1056.—In exercise of the powers conferred by section 9 of the Indian Christian Marriage Act, 1872 (XV of 1872), the Government of Madras are hereby pleased, with effect on and from the 2nd October 1938, to revoke the licence granted to Sri Shenigalagudur Shanthayya of the London Mission Telugu Church Council in the district of Cuddapah under the said section on the 25th day of February 1927.

Fort St. George, September 7, 1938.

No. 1057.—In exercise of the powers conferred by section 9 of the Indian Christian Marriage Act, 1872, (XV of 1872), the Government of Madras are hereby pleased, with effect on and from the 5th October 1938, to revoke the licence granted to the Reverend Ramakuri Gabriel of the Canadian Baptist Mission in the district of West Godavari under the said section, on the 6th day of June 1938.

No. 1058.—In exercise of the powers conferred by section 9 of the Indian Christian Marriage Act, 1872 (XV of 1872), the Government of Madras are hereby pleased, with effect on and from the 5th October 1938, to revoke the licence granted to the Reverend Ravuru Devadasen Philip Augustus of the Andhra Evangelical Lutheran Church in the district of East Godavari under the said section on the 25th day of October 1935.

Fort St. George, September 9, 1938.

No. 1059.—In exercise of the powers conferred by section 9 of the Indian Christian Marriage Act, 1872 (XV of 1872), the Government of Madras are hereby pleased, with effect on and from the 7th October 1938, to revoke the licence granted to Sri Gope Jesuratnam of the Andhra Evangelical Lutheran Church in the district of Guntur, under the said section on the 12th day of January 1935.

Fort St. George, September 9, 1938.

No. 1060.—In exercise of the powers conferred by section 9 of the Indian Christian Marriage Act, 1872 (XV of 1872), the Government of Madras are hereby

pleased, with effect on and from the 7th October 1938, to revoke the licence granted to Major James Devamboos of the Salvation Army in the district of Nellore under the said section on the 20th day of May 1934.

No. 1061.—In exercise of the powers conferred by section 9 of the Indian Christian Marriage Act, 1872 (XV of 1872), the Government of Madras are hereby pleased, with effect on and from the 6th October 1938, to revoke the licence granted to Sri Akumalla Israel of the Telugu Church Council of the South India United Church in the district of Anantapur under the said section on the 22nd day of May 1936.

Fort St. George, September 2, 1938.
(G.O. Ms. No. 4241, Home).

No. 1062.—In exercise of the powers conferred by sub-section (2) of section 1 of the Towns Nuisances Act, 1889 (Madras Act III of 1889), the Government of Madras are hereby pleased to extend permanently with effect from 1st October 1938, the provisions of clauses (9), (11) and (12) of section 3 and section 8 of the said Act, to the area comprised within the limits of Thottiam village of Musiri taluk in the Trichinopoly district.

Fort St. George, September 5, 1938
(G.O. Ms. No. 4286, Home).

No. 1063.—In exercise of the powers conferred by sub-section (1) of section 15 of the Code of Criminal Procedure, 1898 (V of 1898), the Government of Madras are hereby pleased to empower the Bench of Magistrates established at the places specified below in the district of North Arcot to take cognizance under clauses (a) and (b) of sub-section (1) of section 190 of the said Code, of the offences specified in, and subject to the provisions of, Home (Judicial) Department Notification No. 737, dated the 13th August 1919, published at pages 1040 and 1041 of Part I of the Fort St. George Gazette, dated the 26th August 1919, as subsequently amended, and arising within the limits of the jurisdiction of the Bench:—

- | | |
|----------------|--------------------|
| 1 Vellore. | 10 Tiruvettipuram. |
| 2 Gudiyattam. | 11 Wandiwash. |
| 3 Katpadi. | 12 Arkonam. |
| 4 Tiruppattur. | 13 Wallajah. |
| 5 Vanyambadi. | 14 Arcot. |
| 6 Alangayam. | 15 Sholinghur. |
| 7 Kalambur. | 16 Kaveripakkam. |
| 8 Polur. | 17 Arni. |
| 9 Ambur. | |

Fort St. George, September 8, 1938
(G.O. Ms. No. 4368, Home).

No. 1064.—The following notification of the Government of India is republished:—

HOME DEPARTMENT.

Simla, the 1st September 1938.

No. 24/7/38-Judicial.—The following notification issued by the Government of Burma regarding the reciprocal enforcement of maintenance orders between British India and British Burma, is published for general information:—

JUDICIAL DEPARTMENT (JUDICIAL BRANCH).

Rangoon, the 4th August 1938.

No. 154.—Whereas the Governor of Burma is satisfied that the Legislature of British India has made provision for the enforcement, within British India, of maintenance orders made by Courts in British Burma:

Now, therefore, the Governor of Burma declares, under sub-section (1) of section 3 of the Maintenance Orders Enforcement Act, that the said Act shall apply in respect of British India.

Fort St. George, September 5, 1938
(G.O. Ms. No. 4287, Home).

No. 1065.—In exercise of the powers conferred by sub-section (2) of section 1 of the Towns Nuisances Act, 1889 (Madras Act III of 1889), the Government of Madras are pleased to extend the provisions of the said Act to the local area comprised within the limits of the revenue village of Thiruvannamalai alias Venkateswara-puram in the Srivilliputtur taluk of the Ramnad district on the occasion of the Purattasi Thiruvannamalai festival on the four consecutive Saturdays during the period commencing from the 17th September 1938 and ending with the 15th October 1938.

Fort St. George, September 7, 1938
(G.O. Ms. No. 4337, Home).

No. 1066.—In exercise of the powers conferred by paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following special rules:—

RULES.

1. The cadre of clerks, lower division, in the Madras Ministerial Service shall be increased temporarily by one post in each of the Bench Courts in Calicut, Cannanore and Badagara for a period of one year commencing on the dates indicated below, for the performance of work connected with those Courts:—

Calicut	14th September 1938.
Cannanore	2nd November 1938.
Badagara	9th September 1938.

2. The general and special rules applicable to the holders of permanent posts borne on the said cadre shall apply to the holders of the said temporary posts subject to the following modification, namely, that there shall be paid to the holders of each of the said temporary posts a pay calculated in the scale of Rs. 19—2/2—25—1/2—30 a month.

Explanation.—In this rule, the expression “the holders of the said temporary posts” means “the persons counted against the temporary posts.”

Fort St. George, September 3, 1938
(G.O. No. 4271, Home).

No. 1067.—Whereas there is reason to believe that the undermentioned persons, residing in the South Arcot district (in the villages and taluks noted against each), are addicted to the systematic commission of non-bailable offences, the Government of Madras, in exercise of the powers conferred on them by section 3 of the Criminal Tribes Act, 1924 (VI of 1924), hereby declare that the said persons form a criminal tribe for the purposes of the said Act:—

Serial number and name, father's name [within brackets], village and taluk.

- 1 Palanimuthu Padayachi [Velayuda Padayachi], Neelamangalam, Kallakurichi.
- 2 Landan alias Samikkannu Koundan [Hari Ramasami Koundan], Pannakuppam, hamlet of Chinnababusarandram, Villupuram.
- 3 Pavadai Koundan [Kolandai Koundan], Pallagheri, Kallakurichi.
- 4 Tirumalai Moopan [Venkatachala Moopan] Pukkara-vari, Kallakurichi.
- 5 Sowrimuthu Padayachi alias Ramaswami Mudali alias Thangavelu Padayachi alias Veeran alias Veerappan alias Veerasami Padayachi [Ramasami Padayachi], Kurinjipadi, Cuddalore.

No. 1068.—Under section 10 of the Criminal Tribes Act, 1924 (VI of 1924), the Government of Madras further direct that every registered member of the said criminal tribe shall, in the prescribed manner, report himself at fixed intervals and shall also notify his place of residence and any change or intended change of residence, and any absence or intended absence from his residence.

Fort St. George, September 3, 1938
(G.O. Ms. No. 4255, Home).

No. 1069.—

The following draft of an amendment to the Madras Traffic Rules, 1938, published with Home Department Notification No. 400 at pages 34 to 36 of the *Fort St. George Gazette* Extraordinary, dated the 1st April 1938, as subsequently amended which it is proposed to make in exercise of the powers conferred by section 3 of the Madras Traffic Control Act, 1938 (Madras Act V of 1938), is hereby published as required by the said section, for general information.

Notice is hereby given that the draft will be taken into consideration on or after the 6th October 1938 and that any objection or suggestion which may be received with respect thereto from any person before the date aforesaid will be considered by the Government of Madras.

DRAFT AMENDMENT.

In rule 46 of the said rules, for the words “in the case of any culvert or bridge situated on a road withdrawn from the control of the municipal council” the following words shall be substituted, viz., “in the case of any culvert or bridge in charge

of the Public Works Department or situated on a road withdrawn from the control of the municipal council.”

Fort St. George, September 5, 1938
(G.O. No. 4302, Home).

No. 1070.—

The following draft of certain amendments to the Madras Motor Vehicles Rules, 1938, published with Home Department Notification No. 399, dated 31st March 1938, at pages 1 to 33 of the *Fort St. George Gazette* Extraordinary, dated the 1st April 1938, as subsequently amended, which it is proposed to make in exercise of the powers conferred by section 11 of the Indian Motor Vehicles Act, 1914 (VIII of 1914), is hereby published, as required by sub-section (1) of the said section, for the information of all persons likely to be affected thereby.

Notice is hereby given that the draft will be taken into consideration on or after the 13th October 1938 and that any suggestions or objections which may be received from any person with respect thereto before the date aforesaid will be considered by the Government of Madras.

DRAFT AMENDMENTS.

In the said rules—

I. For rule 160 the following shall be substituted, namely:—

“160 (1) Where an application has been made for the grant or renewal of a permit, a transport authority, if it deems it desirable so to do, may, pending the determination of the application or for special reasons to be recorded, grant to the applicant a provisional permit for a period not exceeding six months in Form G or G-1 with the words, figures and brackets ‘Provisional (Rule 160)’ superscribed in bold red type.

(2) The provisional permit shall be surrendered by the holder of the permit to the transport authority on demand by such authority or on receipt of an order refusing to grant or renew the permit or of the permit duly renewed.

(3) A fee shall be charged in respect of such provisional permit as though it were a permit granted or, as the case may be, renewed but no further fee shall be chargeable for the grant or renewal of the permit.”

II. Form G-2 shall be omitted.

Fort St. George, September 9, 1938
(G.O. No. 4379, Home).

No. 1071.—

In exercise of the powers conferred by paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, the Governor hereby makes the following special rules:—

RULES.

1. The cadre of the Madras Police Service shall be increased temporarily by two posts for the period commencing on the 16th September 1938 and ending on the 15th September 1939.

2. The General and Special Rules applicable to the holders of permanent posts borne on the said cadre shall apply to the holders of the said temporary posts.

Explanation.—In this rule, the expression “the holders of the said temporary posts” shall mean the persons counted against the temporary posts.

No. 1072.—

In exercise of the powers conferred by paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, the Governor hereby makes the following special rules:—

RULES.

1. The cadre of the Madras Ministerial Service in the Police department shall be increased temporarily by one post of upper division clerk and two posts of lower division clerks in each of the districts of Cuddapah and Chittoor for the period commencing on the 16th September 1938 and ending on the 15th September 1939.

2. The General and Special Rules applicable to holders of permanent posts borne on the said cadre shall apply to the holders of the said temporary posts.

Explanation.—In this rule, the expression “the holders of the said temporary posts” shall mean the persons counted against the temporary posts.

No. 1073.—

Fort St. George, September 9, 1938
(G.O. Ms. No. 4375, Home).

In exercise of the powers conferred by paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following special rules:—

RULES.

1. The cadre of clerks lower division, in the Madras Ministerial Service shall be increased temporarily by one post in the Bench Court in Vizianagram for a period of one year, commencing on the 1st October 1938 and ending on 30th September 1939, for the performance of work connected with that Court.

2. The general and special rules applicable to holders of permanent posts borne on the said cadre shall apply to the holders of the said temporary post subject to the following modification, namely, that there shall be paid to the holder of the said temporary post a pay calculated in the scale of Rs. 19-2/2-25-1/2-30 a month.

Explanation.—In this rule, the expression “the holder of the said temporary post” means “the person counted against the temporary post.”

Fort St. George, August 25, 1938
(G.O. No. 4098, Home).

No. 1074.—

Rules under the Madras Borstal Schools Act, 1925.

In exercise of the powers conferred by section 4 of the Madras Borstal Schools Act, 1925 (Madras Act V of 1926), the Government of Madras are hereby pleased to make the following rules:—

RULES.

1. In these rules, unless there is anything repugnant in the subject or context,—

- (a) “the Act” means the Madras Borstal Schools Act, 1925 (Madras Act V of 1926);
(b) “Inspector-General” means the Inspector-General of Prisons, Madras; and
(c) “Superintendent” means the Superintendent of the school concerned.

Medical Examination of Inmates.

2. The Superintendent shall conduct the psychological examination of every inmate and record his findings in the Borstal Individual Record, Jail II Form No. 25-A.

3. The Medical Officer shall, as soon as possible after admission and thereafter at intervals of not more than one month, subject every inmate of the school to a detailed medical examination and record his findings in such form as may be directed by the Inspector-General from time to time and shall without delay bring to the notice of the Superintendent any matter of importance affecting the health of the inmate for such action as may seem called for.

4. The Superintendent shall, without delay, report to the Inspector-General of Prisons the case of any inmate who in the opinion of the Medical Officer is unfit for Borstal training.

Classification and Treatment of Inmates.

5. Each school shall be divided into houses, each of which shall contain approximately the same number of inmates, care being taken to ensure that neither the best nor the worst inmates are concentrated in one house. Each house shall have a house-master who shall be selected by the Superintendent from the teachers and instructors of the school. A petty officer shall be appointed to assist each house-master.

6. The house-master and his assistant shall be responsible to the Superintendent for—

- (a) the tone and general behaviour of their house;
(b) the training of each inmate therein;
(c) the cleanliness of the yards, rooms; clothing and bedding and their being kept in good order and repair; and
(d) the proper distribution of food among the inmates.

7. Each house shall be divided into groups, care being taken to ensure that neither the best nor the worst inmates are concentrated in one group. Each group will be under a monitor who has been selected by the house-master from the ranks of each group and may wear a distinguishing mark.

8. The Superintendent shall select from the monitors a head-monitor for each house. The head-monitor shall be in addition to the group monitors and shall wear a special badge on the left breast.

9. The inmates will be divided into four grades, namely:—

- (1) The Penal grade;
(2) The Ordinary grade;
(3) The Star grade; and
(4) The Special Star grade.

The Superintendent shall, with the approval of the Inspector-General, frame a scale of privileges and responsibilities for each grade.

10. Every inmate shall remain in the Ordinary grade in which he is placed on reception in the school, for at least three months. He shall, during that period, be employed on domestic service, gardening or farming, be carefully observed by the staff with special reference to his character, mental disposition and fitness for a special training and subject to good behaviour, be permitted to take part in games on Saturdays.

Note.—This rule does not apply to inmates received from a Senior Certified School, except those transferred in the interest of discipline under section 35 (2) (c) of the Madras Children Act, 1920. They shall be placed in the Star grade and in the trade in which they were trained in the Senior Certified School, unless the Superintendent for good reason, decides otherwise.

11. Promotions to the Star grade shall be made by selection by the Superintendent, an inmate so promoted being placed in a trade suitable to his individual taste and capacity. While in this grade, an inmate shall be permitted by exemplary conduct to earn badge money of one rupee a quarter.

12. An inmate in the Star grade may be promoted to the Special Star grade if the Superintendent is satisfied after close observation of the inmate's general demeanour and efficiency that he may be safely placed in a position of special trust. Inmates in the Special Star grade shall wear a distinctive dress, may act as monitors, and may be placed in authority over other inmates on parade, in the workshops or recreation rooms. They may perform sentry duties at night and other duties in which they can assist the administration. They may sleep in association wards and by exemplary conduct earn badge money of Rs. 3 a quarter. They may be allowed to go out unattended subject to reasonable limits of time and distance and need not be locked up at night.

13. All badge money may be spent on objects approved by the Superintendent or be invested in the local savings bank.

14. The Superintendent shall, to such extent as he considers suitable, permit inmates in the Star and Special Star grades, to take part in games, to go out to scout camps and to compete in district athletic sports and tournaments. Inmates in the Star and the Special Star grade shall be taken on route marches once a month.

15. An inmate placed in the Penal grade shall be employed on hard and laborious work.

16. The Superintendent may reduce for such period as he considers necessary, any inmate by one or more grades for misconduct or for exercising a bad influence in the school; but no inmate shall be placed in the Penal grade for a period of more than three months without the specific sanction of the Inspector-General. The Superintendent may restore the inmate to his original grade, by stages, if necessary. The Superintendent shall enter in his journal, particulars of every case of reduction of grade ordered by him, the reasons for such order, and the period for which the reduction is to be in force.

Leave of Absence.

17. The Superintendent may, at his discretion, and subject to such conditions as he may deem proper, grant leave of absence to any inmate in the Star or Special Star grade for a period not exceeding ten days at any time and subject to a maximum of fifteen days in a year, if he is satisfied that the inmate will return at the end of the leave, to visit parents or relatives if the behaviour of the inmate justifies such a privilege; and in special

cases to visit a parent or relative who is dangerously ill.

Such period of leave of absence shall be treated as 'Release on parole.'

18. The Superintendent may at any time cancel the leave and recall the inmate without assigning any reasons, and shall recall the inmate if he is satisfied that an epidemic is prevalent in or near the place of residence of the inmate, or if in his opinion, the conditions subject to which the leave was granted are in any way infringed.

If an inmate fails to return by the due date, the services of the police may be requisitioned to bring him back.

19. Every case of overstay of leave shall be reported to the Inspector-General.

Daily routine.

20. All inmates, provided they are medically fit, shall be required to engage in drill, study and labour for eight hours every working day. The following daily routine shall be observed in the school:—

5-30 a.m.	..	..	..	Unlocking.
5-45 a.m.	..	..	..	Morning prayer, visit to latrine and ablutions.
6 to 7 a.m.	..	..	..	Parade and physical training.
7 to 7-30 a.m.	..	..	..	Morning meal.
7-30 to 11 a.m.	..	..	..	Workshops, schools, agricultural training, etc.
11 a.m. to 12-30 p.m.	..	..	..	Midday meal, prayer and rest.
12-30 to 4 p.m.	..	..	..	Workshops, school and agricultural training, etc.
4 to 5 p.m.	..	..	..	Recreation and games.
5 to 5-30 p.m.	..	..	..	Bath.
5-30 to 6 p.m.	..	..	..	Meals.
6 to 7 p.m.	..	..	..	Lock-up.

From 16th March to 15th June, inclusive, the recreation and games period shall start at such times between 4-30 p.m. and 5 p.m. as the Superintendent may determine, and the Superintendent may modify the latter part of the daily routine to such extent as he considers necessary.

Literary Education.

21. Literary instruction shall be given in the inmate's vernacular and limited ordinarily to the elements of reading, writing and arithmetic. An inmate shall attend school from the date of his admission and for two hours daily. Every inmate shall be examined by the teacher at the end of every six months and the marks obtained and position in class recorded in the Borstal individual record.

22. Intelligent inmates who have satisfactorily completed the Borstal Standard of Education or have studied in the middle or high school classes before admission may be given facilities to improve their education with the assistance of the staff available.

23. The District Educational Officer and his assistants shall inspect the school annually and a report of the examination of the classes shall be submitted to the Inspector-General through the Superintendent. A certificate in Form Jail II, No. 155, shall be given to every inmate discharged from the school to assist him to find suitable employment.

24. Monitors who in the opinion of the Superintendent are sufficiently educated for the purpose may be employed in the classes to assist the teachers.

25. When an inmate fails to profit by instruction, the Superintendent may exempt such inmate from attending the class and his time shall be suitably utilized in other work.

26. Every school shall be provided with a library for the use of inmates containing English and vernacular books and periodicals approved by the Inspector-General.

Vocational Training.

27. Inmates shall not be allowed to change their work except for very special reason. Any transfer from one form of training to another must be approved by the Superintendent, save in the case of unskilled labouring parties where transfers may be effected by the Deputy Superintendent.

28. In the workshops, work shall normally be done on orders received, but when these are insufficient or do not provide sufficient variety for training, the Superintendent shall utilize the amount allowed for expenditure on instructional purposes on the purchase of materials, e.g., country wood, extra yarn, metal bars and sheets.

29. Each inmate shall, for five hours daily, be given vocational instruction, which shall include at least two hours a week instruction in the theory of the subject.

30. Each teacher and instructor shall enter in the Borstal individual record once in six months the progress of each inmate in his charge by the award of marks.

31. The restriction imposed by rule 264 (2) of the Madras Jail Manual, shall not apply to boys detailed for extra moral work.

Ambulance, First Aid and Scouting.

32. One hour a week out of the periods allotted for literary education, and one hour a week out of the periods allotted for vocational training, may be given to training in Ambulance, First Aid and Scouting. Instruction in these matters may also be given on Sundays.

33. The Superintendent should select from the teachers and instructors suitable individuals to undergo a course of training in scout-craft so as to enable them to train and lead the inmates efficiently. The persons so selected shall be provided with scout uniforms at Government cost.

34. Inmates permitted to take part in camps, scout activities, district sports, etc., outside the school, may be granted leave not exceeding ten days a year for the purpose.

Annual Sports and Prize Distribution.

35. The Superintendent shall arrange for holding annual sports and for a public distribution of prizes.

Religious and Moral Instruction.

36. As far as possible all inmates shall receive religious and moral instruction on Sundays from persons of their own religion approved by the Superintendent or from honorary instructors of their own religion approved by the Inspector-General.

Holidays.

37. Sundays, Christmas Day, Good Friday, the King-Emperor's Birthday, Pongal, Deepavali, the last day of the Ramzan, New Year's Day, Tamil New Year's Day, Telugu New Year's Day and Ayuda Puja shall be regarded as general holidays for the school. Bakrid and Barawafat shall be regarded as sectional holidays for Muslim inmates and Onam and Vishu for Malayalee inmates. No work shall be exacted on these holidays from the inmates to whom they apply except such work as may be necessary for the internal management and domestic economy of the school or as may be required by an emergency.

Dietary.

38. (a) All Indian inmates shall have diet in accordance with the following scale:—

Articles.	Quantity in oz.
Rice	20
Dhall	5
Vegetables	5
Oil	1
Tamarind	1-1/16
Salt	1/2
Curry powder	1/2
Onions	1/2
Butter-milk—At a cost not exceeding 3 pies.	
* Two oz. of dhall may be replaced thrice a week by 2 oz. of smoked or dried fish or 4 oz. of fresh fish.	

Distribution of diet.

Morning	..	..	..	..	..	4 oz. of rice.
Mid-day	..	..	..	..	..	9 do.
Evening	..	..	..	..	..	7 do.

(b) European and Anglo-Indian inmates shall have diets in accordance with the following scale:—

Articles.	Quantity in oz.
Bread	16
Meat	10
Rice (polished)	4
Potatoes	4
Vegetables (green)	6
Dhall	1 1/2
Butter	2
Gingelly oil or coconut oil	1/2
Sugar, white	1 1/2
Onions	1
Milk for tea	6
Plantain (1)	2
Tea leaves	1/2
Curry powder	1/2
Salt	1/2

Articles.	Distribution of diet.				Quantity.
	Breakfast.				
Bread	8 oz.
Butter	1 "
Tea	1 pint.
Dinner.					
Meat	4 oz.
Potatoes	4 "
Rice	4 "
Dhall	1 1/2 "
Vegetables	4 "
Plantain	1 "
Supper.					
Bread	8 oz.
Butter	1 "
Tea	1 pint.
Meat	8 oz.

* 2 days in the week meat.
3 days in the week beef.
2 days in the week fish.

Clothing and Bedding.

39. The clothing and bedding of inmates shall be on the following scale:—

Articles.	Period of renewal.
Penal grade.	
Blue caps	2
" jackets	2
" shorts	2
" belts	2
Lungoties	2
Towels	2
Cotton banians	2
Handkerchiefs	2
Sleeping suit	1
Ordinary cumby	1
Cotton dhurry	1
Comb	1
One year.	
2 years.	
2 1/2 years.	
Issued at the time of admission.	
Ordinary grade.	
Khaki caps	2
" jackets	2
" shorts or trousers	2
" belts	2
White lungoties	2
" towels	2
Cotton banians	2
Handkerchiefs	2
Sleeping suit	1
Ordinary cumby	1
Cotton dhurry	1
Comb	1
One year.	
2 years.	
2 1/2 years.	
Issued at the time of admission.	
Star grade.	
Same as ordinary grade with brass star affixed on left breast of jacket.	
Special star grade.	
White caps	2
" jackets with brass star on left breast	2
" shorts or trousers	2
" belts	2
" lungoties	2
" towels	2
Cotton banians	2
Handkerchiefs	2
Sleeping suit	1
Ordinary cumby	1
Cotton dhurry	1
Comb	1
One year.	
2 years.	
2 1/2 years.	
Issued at the time of admission.	

European and Anglo-Indian inmates.

Khaki jackets	2
" shorts	2
Belt 1 1/2 inches	2
Banians, cotton	2
Sleeping suit, cotton	1
Socks, cotton	2 pairs.
Boots, black	2
Handkerchiefs	2
Khaki sunbat, pith	2
Towels	2
Pillow	1
Pillow cases	1
Cumby blanket	1
Cotton dhurry	1
Comb	1
One year.	
3 years.	
1 year.	
2 years.	
2 1/2 years.	
Issued at the time of admission.	

Note (1)—The quantity of cloth for penal suits, ordinary, star and special star inmates, shall be not more than 3 1/2 yards; and the suits of Muhammadan inmates will be made of 4 yards each.

(2)—A second cumby may be issued during winter or cold months if considered necessary and withdrawn when not required.

(3)—The buckle used on the belt shall be renewed once in two years.

40. An inmate, on arrival, shall be provided with two suits, one new and another part-worn, if available. No article of clothing which has been worn by one inmate shall be issued to another unless it has been washed, and disinfected. Articles of clothing shall have stamped on them in indelible ink, date of first issue, date of return, if returned before expiry of period of wear, and date of re-issue.

In addition to the above, each inmate, on arrival will be provided with a sports dress (coloured) which may be either new or part-worn. The period of wear of such suit is two years. The quantity of cloth that is necessary for this suit is 3 1/2 yards.

41. Inmate in the band class passed as classified to perform in the school band shall be provided with the following uniform. The cost of each suit shall not exceed Rs. 4-2-0:—

Coat, white	} With facings and trimmings and green collar. Period of wear two years.
Long trousers	..	..
Cap	..	..

42. The following shall be the uniform of the scouts. The clothing shall be worn by the scouts while they take part in scout activities. The cost of each suit shall not exceed Rs. 3:—

One khaki twill shirt	} Period of wear one year.
One pair khaki drill shorts	..	..
Three yards khaki mull for turban and scarf	..	..

Commitment.

43. An adolescent offender committed to a Borstal School shall be sent to the Borstal School, Palamcottah, if his vernacular is Tamil or Malayalam, and to the Borstal School, Tanjore, if his vernacular is Telugu, Kannada, English, Hindustani or any other language.

44. All committing magistrates shall furnish the Superintendent of the school as early as possible with a copy of the judgment and the detailed information regarding the previous history, parentage, occupation, etc., required in the list of interrogatories in the Form in Appendix I.

45. An order committing an adolescent offender to a Borstal School under section 8 of the Act shall be in the form in Appendix III.

Visiting Committee.

46. The rules in Chapter III of the Madras Jail Manual shall not apply to Borstal schools, with the exception of rules 21, 29, 30 and 31.

47. The District Magistrate shall be the Chairman of the Visiting Committee appointed under sub-section (2) of section 3.

48. In the absence of the chairman, the members present at the meeting shall elect one from among themselves to be the chairman of the meeting.

49. The Superintendent shall bring to the notice of the Inspector-General, the failure, of any member to attend three consecutive meetings. Such member if he is a non-official, may be removed from office.

50. Three members shall form a quorum. It shall be the duty of the members of the Visiting Committee to visit the school in rotation once a week. The Chairman shall arrange the roster for the weekly visits to the school so as to give each visitor his turn and shall send by post card, an intimation to the member whose turn it is to visit the school in the ensuing week. There shall not be a fixed day of the week for those visits, but the visitor shall be free to visit the school on any day that suits him and at any time between unlocking and lock-up.

There shall also be a quarterly meeting of the Visiting Committee on the last Saturday of the quarter or at such other time as the Chairman may determine. At the meeting, it shall carry out the duties referred to in section 19-B (b) to (e) of the Act and in particular shall (a) examine the punishment book, medical register, the admission and disposal registers, and after-care reports, (b) interview new admissions since last meeting, (c) hear any representations that inmates may desire to make. The Chairman may convene special meetings in addition to the quarterly meetings, on such dates as he may determine.

51. At least two clear days previous to the date of meeting a notice thereof together with an abstract of any special matters to be considered shall be furnished to the members by the Chairman of the Committee.

52. The minutes of each meeting shall be prepared by the Chairman and sent to the Superintendent who will forward them with his remarks to the Inspector-General.

53. The Superintendent shall give effect to the resolutions of the Committee and intimate to the Inspector-General the fact of his having done so:

Provided that if in the opinion of the Superintendent it would be inconsistent with the Act or these rules, or inexpedient, to give effect to any such resolution, he shall submit the same for the orders of the Inspector-General and intimate to the Chairman, the fact of his having done so.

54. The Superintendent may decline to furnish any information required or to produce any record, the examination of which is sought by any member of a Visiting Committee, if, for reasons to be recorded in writing, the Superintendent considers that it will be undesirable to furnish such information or produce such record.

55. The Superintendent shall bring to the notice of the Visiting Committee—

(1) the cases of all inmates who, having undergone not less than six months of detention, are in the opinion of the Superintendent, fit for release on licence;

(2) all cases which fall within the scope of section 14 of the Borstal Act, and

(3) the case of all inmates who owing to mental deficiency, are unfit for Borstal training.

The Superintendent shall advise the Committee on the merits of each case.

Notwithstanding anything contained in this rule, the Superintendent shall have discretion not to bring to the notice of the Committee, any case in which a report or recommendation of the Committee is not required by the provisions of the Act, if the matter is so urgent that it cannot wait for consideration by the Committee or if for any other reason the Superintendent considers that such case should not be referred to the Committee.

Discharge or release on licence.

56. Not less than six weeks before each meeting of the Committee, the Superintendent shall forward to the Secretary of the Borstal Association, the names of inmates he proposes to recommend for discharge or release on licence so that the Association may make necessary inquiries as to Probation Officers, employment, etc., and shall place any such information obtained from the Association before the members of the Visiting Committee.

The cases recommended by the Visiting Committee shall be submitted for orders to the Provincial Government or to the Inspector-General, as the case may be.

Note.—In considering the advisability of releasing inmates on licence, the Superintendent shall seek the advice of the District Magistrate of the district to which the inmate belongs.

57. The inmate to be discharged under sub-section (1) of section 15, shall execute a bond in the form appended (Appendix II).

58. If at any time, during the period of licence, a probation officer under whose care an inmate is placed, is of opinion that the inmate has not made any efforts to show progress in his work or finds that his conduct is not satisfactory, he shall immediately report the matter to the District Magistrate who will send a report to the Inspector-General.

Interviews and Letters.

59. An inmate may receive a visit on reception and subsequently once a month, from his parents, relatives or friends. Special visits may also be allowed by the Superintendent at his discretion. Every facility shall be given to accredited legal advisers for interview in connexion with any appeal against the order of detention. It is within the discretion of the Superintendent to determine the length of the visit and whether the visits should be in the presence of an officer not below the rank of an Assistant Superintendent.

An inmate may write to any member of his family on reception and subsequently once a month to any one approved by the Superintendent at Government cost. An inmate may receive such letters as are addressed to him, but the Superintendent has power to disallow any incoming letters for any reason. The Superintendent may, at his discretion allow

such inmates to write at their own cost and to receive letters at more frequent intervals. Letters incoming and outgoing shall be censored by the Superintendent or by such officer as may be deputed by the Superintendent for the purpose.

If their address is known, parents, or if it is not possible to communicate with parents, the nearest relations whose address is known shall receive notice of the serious illness of inmates, and the Superintendent shall answer any inquiries made by them provided that postage stamps for the reply are enclosed.

Reports by Superintendents.

60. The Superintendent shall submit to the Inspector-General every year in such form as the latter may, from time to time, direct—

(a) not later than the 15th February, a report on the administration of the school in the preceding calendar year; and

(b) not later than the 31st March, a report on the aftercare of inmates discharged in the preceding calendar year.

APPENDIX I.

(See rule 44)

Form of Interrogatories (Borstal Schools).

- 1 Has the adolescent any near relations living and if so, what is their occupation?
- 2 What was the occupation of the adolescent prior to his conviction and were his means of living adequate?
- 3 Give a brief statement of the circumstances which led him to commit the crime he is convicted of.
- 4 Has he committed any offence before? If so, what, and how was he dealt with?
- 5 Have any close relations of his been previously convicted and are any of them at present in jail or detained in the schools?
- 6 Has the adolescent any land of his own and if so, how much?
- 7 Is it likely that the adolescent will be able to resume his occupation after release from schools?

APPENDIX II.

(See rule 57)

[Bond executed by an inmate of a Borstal School discharged on licence under sub-section (1) of section 15 of the Madras Borstal Schools Act, 1925, by the Inspector-General of Prisons, Madras.]

I,, son of, of the village of, in the district of, an inmate now detained in the Borstal School at, being informed that the Inspector-General of Prisons, Madras, will discharge me from detention on my assenting to the conditions below, do hereby bind myself:—

- (1) immediately on discharge to proceed to, and present myself to, my employer/probation officer;
- (2) to be under his care and directions until the residue of the period of my detention expires; and
- (3) during the aforesaid period—
 - (a) not to change my address without the consent of my probation officer,
 - (b) not to associate with persons of bad character.
 - (c) to lead a sober and industrious life to the satisfaction of my employer/probation officer; and
 - (d) to be of good conduct.

I hereby agree to abide by the above conditions and if I knowingly violate any of them, I shall render myself liable to be sent back to the Borstal School.

Signature of Inmate.

Certified that the foregoing conditions were read over to the inmate and accepted by him in my presence.

Witness:

1

2

Signature of Superintendent.

APPENDIX III.

(See rule 45)

(Form of order under section 8 of Borstal Schools Act.)

IN THE COURT OF THE

Case No. of

To

The Superintendent,, Borstal School.

Whereas, aged, accused in case No. of, was convicted on, by me,, Magistrate of, of the offence of, and after due enquiry I am satisfied that it is expedient to send him to a Borstal School, this is to authorize and require you the said Superintendent to receive the said, into the Borstal School and there keep him for, years/or/until he attains the age of 25 years.

- 1 The distance from his native place (.....) to the nearest railway station is
- 2 Details of property on inmate's person

3 Descriptive roll—

Name.
 Father's name.
 Sex, married or single.
 Race, religion and caste.
 Previous occupation, if any.
 Age.
 Descriptive marks.

Given under my hand and seal of this Court, this.....

Seal. Signed
 Magistrate or Judge.

APPENDIX IV.

(See rule 23)

(Form of discharge certificate.)

I hereby certify that inmate No.....name.....
 has been discharged from this school.

Standard of education.

Manual or other training received.

Superintendent's opinion as to character, industry and ability.

School.....

Date.....

Superintendent.

H. R. UZIELLI,
 Secretary to Government.

REVENUE DEPARTMENT.

POSTINGS.

Fort St. George, September 5, 1938.

No. 756.—The following postings of deputy collectors are ordered:—

- Sri R. S. Malayappan, on return from leave, to the North Arcot Treasury, vice Sri R. Subrahmanya Ayyar.
 Sri S. G. Grubb, on relief at Negapatam, to general duty, Coimbatore, in relief of Sri P. Chinnaswami Talaivar.
 Sri S. Virupaksha Chetti, on return from leave, to general duty, Guntur.
 Sri M. Varadarajulu Nayudu, on relief, from general duty, Guntur, to special duty, Guntur, as Special First-class Magistrate.

Fort St. George, September 9, 1938.

No. 757.—The following posting of a Registrar of Assurances is ordered:—

- Sri V. V. Ranganathan, on return from leave, to be Registrar of Assurances, Bellary-Anantapur registration district, in relief of M. H. Iqbal Sahib Bahadur.

NOTIFICATIONS.

Fort St. George, September 2, 1938.
 (G.O. No. 2238, Revenue).

No. 758.—

In exercise of the powers conferred by section 215 of the Madras Estates Land Act, 1908 (Madras Act I of 1908), the Government of Madras are hereby pleased to make the following amendment to the rules published with Revenue Department Notification No. 559, dated the 28th October 1936, at pages 1515-1516 of Part I of the *Fort St. George Gazette*, dated 3rd November 1936:—

AMENDMENT.

In rule 2 of the said rules, for the last portion beginning with the words "for the realization of the stamp duty," the following shall be substituted, namely:—

- "for—(a) the realization under section 48 of the said Act of the stamp duty payable in respect of the instrument and of the penalty imposed in respect thereof under section 40 (1) (b) of the said Act; and
 (b) the return of the instrument duly stamped with an endorsement certifying that the stamp duty and penalty aforesaid have been collected."

Fort St. George, September 5, 1938
 (G.O. Ms. No. 2289, Revenue).

No. 759.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following amendment to the special rules published with Revenue Department Notification No. 753, dated 27th September 1937, at page 1698 of Part I of the *Fort St. George Gazette*, dated the 5th October 1937:—

AMENDMENT.

In rule 1 of the said rules, for the expression "for a period of two years from 8th October 1936," the expression "for a period of three years from 8th October 1936" shall be substituted.

Fort St. George, September 5, 1938
 (G.O. Ms. No. 2293, Revenue).

No. 760.—

In exercise of the powers conferred by paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following special rules:—

RULES.

1. The cadre of the lower division clerks in the Madras Ministerial Service employed in the Revenue department in the Madura district shall be increased temporarily by one post for a period of one year from the date of appointment of a lower division clerk in the Madura Collector's office for work connected with the Doddappanayakanur estate.

2. The general and special rules applicable to holders of permanent posts borne on the said cadre shall apply to the holder of the said temporary post.

Explanation.—In this rule, the expression "the holder of the said temporary post" shall mean "the person counted against the said temporary post."

Fort St. George, September 5, 1938
 (G.O. Ms. No. 2294, Revenue).

No. 761.—

In exercise of the powers conferred by paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of the Government of India Act, 1935, His Excellency the Governor hereby makes the following special rules:—

RULES.

1. The cadre of clerks, lower division, in the Madras Ministerial Service employed in the Bellary district, shall be increased temporarily by one post for the period commencing on the date of appointment of a lower division clerk in the Collector's office to assist the famine accountant and ending on 30th September 1938.

2. The general and special rules applicable to holders of permanent posts borne on the said cadre shall apply to the holder of the said temporary post.

Explanation.—In this rule, the expression "the holder of the said temporary post" means the person counted against the said temporary post.

Fort St. George, September 5, 1938
 (G.O. Ms. No. 2297, Revenue).

No. 762.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following amendment to the special rules published with Revenue Department Notification No. 781, dated 8th October 1937, at pages 1748-49 of Part I of the *Fort St. George Gazette*, dated 12th October 1937, as subsequently amended:—

AMENDMENT.

In rule 1 of the said rules, for the date "31st August 1938," the date "20th September 1938" shall be substituted.

No. 763.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the

Governor is hereby pleased to make the following amendment to the special rules published with Revenue Department Notification No. 23, dated 5th January 1938, at pages 65-66 of Part I of the *Fort St. George Gazette*, dated the 11th January 1938, as subsequently amended:—

AMENDMENT.

In rule 1 of the said rules, for the date "31st August 1938," the date "20th September 1938" shall be substituted.

No. 764.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following amendment to the special rules published with Revenue Department Notification No. 517, dated 29th May 1938, at page 818 of Part I of the *Fort St. George Gazette*, dated 7th June 1938, as subsequently amended:—

AMENDMENT.

In rule 1 of the said rules, for the date "31st August 1938," the date "20th September 1938" shall be substituted.

No. 765.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following amendment to the special rules published with Revenue Department Notification No. 486, dated 16th May 1938, at page 732 of Part I of the *Fort St. George Gazette*, dated 24th May 1938, as subsequently amended:—

AMENDMENT.

In rule 1 of the said rules, for the date "31st August 1938," the date "20th September 1938" shall be substituted.

No. 766.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following amendment to the special rules published with Revenue Department Notification No. 538, dated 27th June 1938, at page 976 of Part I of the *Fort St. George Gazette*, dated 5th July 1938, as subsequently amended:—

AMENDMENT.

In column (3) of the table in rule 1 of the said rules, for the date "31st August 1938," the date "20th September 1938" shall be substituted.

Fort St. George, September 5, 1938
(G.O. Ms. No. 2304, Revenue).

No. 767.—

In exercise of the powers conferred by paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor hereby makes the following amendment to the special rules published with Revenue Department Notification No. 429, dated 30th April 1938, at pages 631-632 of Part I of the *Fort St. George Gazette*, dated 3rd May 1938, as subsequently amended:—

AMENDMENT.

In column (2) of the table in rule 1 of the said rules, for the expression "for a period of three months," the following expression shall be substituted, namely:—

"for the period commencing on the date of appointment of the clerk and ending on 30th September 1938."

Fort St. George, September 6, 1938
(G.O. Ms. No. 2313, Revenue).

No. 768.—In exercise of the powers conferred by paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following special rules:—

RULES.

1. The cadre of clerks, lower division, in the Madras Ministerial Service employed in the Revenue department

in the Trichinopoly district shall be increased temporarily by two posts for the period commencing on the date of appointment of the clerks and ending on 30th June 1939, for the performance of work connected with the administration of the Madras Estates Land Act in the Revenue Divisional Office, Ariyalur.

2. The general and special rules applicable to holders of permanent posts borne on the said cadre shall apply to the holders of the said temporary posts.

Explanation.—The expression "the holders of the said temporary posts" shall mean the persons counted against the said temporary posts.

Fort St. George, September 7, 1938
(G.O. Ms. No. 2321, Revenue).

No. 769.—

In exercise of the powers conferred by paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following special rules:—

RULES.

1. The cadre of clerks, lower division, in the Madras Ministerial Service in the Revenue department in the Madura district, shall be increased, temporarily, by one post for a period of two months from the date of appointment of a clerk for the performance of work connected with the acquisition of lands in Tirupparankundram village, Madura taluk, for house sites for the labourers working in the Madura Mills.

2. The general and special rules applicable to holders of permanent posts borne on the said cadre shall apply to the holder of the said temporary post.

Explanation.—The expression "the holder of the said temporary post" shall mean the person counted against the said temporary post.

Fort St. George, September 7, 1938
(G.O. Ms. No. 2332, Revenue).

No. 770.—

In exercise of the powers conferred by paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following special rules:—

RULES.

1. The cadre of the lower division clerks in the Madras Ministerial Service in the Revenue department in the Presidency shall be increased temporarily by seventy-one posts for a period of one and a half months commencing in each case on the date on which the individual clerk is appointed, for the performance of work connected with the training of karnams and candidates for the post of karnam.

2. The general and the special rules applicable to holders of permanent posts borne on the said cadre shall apply to the holders of the said temporary posts.

Explanation.—In this rule "the holders of the said temporary posts" shall mean the persons counted against the said temporary posts.

Fort St. George, September 9, 1938
(G.O. Ms. No. 2364, Revenue).

No. 771.—In exercise of the powers conferred by paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following special rules:—

RULES.

1. The cadre of lower division clerks in the Madras Ministerial Service employed in the office of the Board of Revenue shall be increased temporarily by one post for a period of three months commencing from the date of appointment of a clerk for work connected with the Settlement Parties.

2. The general and special rules applicable to holders of permanent posts borne on the said cadre shall apply to the holder of the said temporary post subject to the modification that there shall be paid to the holder of the said temporary post a pay calculated at the minimum of the lower division time-scale.

Explanation.—In this rule, the expression "the holder of the said temporary post" shall mean the person counted against the said temporary post.

Fort St. George, September 8, 1938
(G.O. No. 2348, Revenue).

No. 772.—

Rules for the grant of loans for the relief of indebtedness under the Agriculturists' Loans Act, 1884, as amended by Madras Act XVI of 1935.

In exercise of the powers conferred by sub-section (1) of section 4 of the Agriculturists' Loans Act, 1884 (XII of 1884), as amended by Madras Act XVI of 1935, and in supersession of the Madras Agriculturists' Loans (Relief of Indebtedness) Rules, 1935, published with Revenue Department Notification No. 321, dated 29th October 1935, at pages 1436-1442 of Part I of the Fort St. George Gazette, dated the 29th October 1935, as subsequently amended, the Government of Madras are hereby pleased to make the following rules for the grant of loans for the relief of indebtedness of agriculturists:—

RULES.

I. Short title and commencement.—(1) These rules may be called the Madras Agriculturists' Loans (Relief of Indebtedness) Rules, 1938.

(2) They shall come into force on the 1st October 1938.

II. Definitions.—In these rules, unless there is anything repugnant in the subject or context—

(i) 'debt' means any liability in cash or kind, whether secured or unsecured, due from an agriculturist, whether payable under a decree or order of a civil or revenue court or otherwise, but does not include—

(a) rent as defined in clause (iv) of section 3 of the Madras Agriculturists' Relief Act, 1938, or 'kanartham' as defined in section 3 (i) (1) of the Malabar Tenancy Act, 1929;

(b) any revenue, tax or cess payable to the Government or any other sum due to them, by way of loan or otherwise;

(c) any revenue, tax or cess payable to the Central Government or any other sum due to them, by way of loan or otherwise;

(d) any tax or cess payable to any local authority or any other sum due to them, by way of loan or otherwise;

(e) any debt contracted on the security of house property alone in a municipality, a cantonment, or a panchayat which was a union before the 26th August 1930;

(f) any liability in respect of any sum due to any co-operative society, including a land mortgage bank, registered or deemed to be registered under the Madras Co-operative Societies Act, 1932, or any debt due to any corporation formed in pursuance of an Act of Parliament or of any special Indian law or Royal Charter or Letters Patent;

(g) any liability arising out of a breach of trust;

(h) any liability in respect of maintenance whether under decree of court or otherwise;

(i) any debt or debts due to a woman on the 1st October 1937 who on that date did not own any other property, provided that the principal amount of the debt or debts did not exceed rupees three thousand.

Explanation.—For the purpose of this clause, the house in which the creditor woman lived, or any furniture therein, or her household utensils, wearing apparel, jewellery, or such like personal belongings shall not be regarded as property;

(j) any wages due to an agricultural or other rural labourer;

(k) any debt for the recovery of which a suit is barred by limitation;

Provided that where the liabilities mentioned in clause (f) arise by reason of an assignment to the co-operative society, such assignment has taken place before the 1st October 1937 or is an assignment to such society of a loan granted by a co-operative society;

(ii) 'Form' means a form appended to these rules;

(iii) 'Government' means the Government of Madras; and

(iv) 'Loans Officer' means an officer competent to grant a loan under rule VI.

III. Persons to whom loans may be granted.—Loans may be granted under these rules to agriculturists as defined in the Madras Agriculturists Relief Act, 1938, who own lands or the occupancy right in lands, the value of which lands or right, free of encumbrances, as estimated by the Loans Officer does not exceed Rs. 5,000.

IV. Preliminary provisions.—(1) Subject to the provisions of sub-rule (2), a loan shall be granted to an applicant only for satisfying a decree or order for the repayment of a debt passed by a civil court or Debt Conciliation Board in accordance with the provisions of the Madras Agriculturists Relief Act, 1938.

(2) In any revenue division in which no separate Debt Conciliation Board is established the Loans Officer may sanction a loan to an applicant for the discharge of debts which have been scaled down by the Loans Officer with reference to the provisions of the Madras Agriculturists Relief Act, 1938, with the consent of the applicant and his creditor or creditors.

V. Conditions subject to which loans may be granted and the maximum amount of loan admissible.—(1) No loan shall be granted under these rules to any person—

(i) unless he makes full disclosure of all his debts; and

(ii) unless he applies for an amount of loan which, after all such debts have been scaled down with reference to the provisions of the Madras Agriculturists Relief Act, 1938, would be sufficient to discharge all such debts or the total encumbrance on a definable part of his property.

(2) The amount of loan sanctioned to any applicant shall be limited to the amount finally ascertained after the scaling down of debts, as required for the discharge of all his debts or the total encumbrance on a definable part of his property;

Provided that no loan shall be granted, if the amount so ascertained is below Rs. 100 or if it exceeds Rs. 1,000;

Provided further that no loan shall be granted for the discharge of new debts incurred on or after 1st October 1937.

Illustration (1).—X owes Rs. 1,000 to creditors after scaling down. Rupees 600 is secured on his property A and Rs. 400 on his property B. Each amount being the total encumbrance on a definable part of his property, X may apply for and be given either a loan of Rs. 1,000 to discharge all his debts or a loan of Rs. 600 to discharge the total encumbrance on his property A or Rs. 400 to discharge the total encumbrance on his property B, provided other conditions of the loan are fulfilled, even though his property B or A, as the case may be, may continue to be encumbered.

Illustration (2).—X owes Rs. 1,500 to creditors after scaling down. Rupees 800 is secured on his property A and Rs. 700 on his property B. Each amount being the total encumbrance on a definable part of his property, X may be given a loan of Rs. 800 to discharge the total encumbrance on his property A or Rs. 700 to discharge the total encumbrance on his property B, provided other conditions of the loan are fulfilled but he cannot be given any loan to discharge all his debts.

VI. Officers competent to grant loans.—The following officers shall be competent to grant loans not exceeding in each case the sums specified against them:—

	Rs.
Revenue Divisional officers	1,000
Tahsildars	500
Deputy Tahsildars in independent charge	250
	and
	when specially empowered by the Collector
	Rs. 500.
Other Deputy Tahsildars	250
	when specially empowered by the Collector.

Provided that where Special Tahsildars or Special Deputy Tahsildars are appointed for the disbursement of loans under these rules, the Collector may empower them to grant loans up to Rs. 1,000.

VII. *Application for loans.*—(1) Every application for a loan under these rules shall be made to the Loans Officer in writing in Form A. The application shall be signed by the applicant himself, or if he is illiterate shall bear his mark, which shall be attested by two respectable witnesses. The application shall be accompanied by a copy of the decree or order (if any) passed by the civil court or Debt Conciliation Board, scaling down the debt or debts of the applicant, under the provisions of the Madras Agriculturists Relief Act, 1938. Where in respect of any debt shown in the application no decree or order has been passed by a civil court or a Debt Conciliation Board, the application shall be accompanied by a statement of consent by the creditor or creditors agreeing to the scaling down of the debt or debts by the Loans Officer. Such statements shall be signed by the creditors, or if they are illiterate, shall bear their mark which shall be attested by two respectable witnesses.

(2) Any application made otherwise than in conformity with the provisions of sub-rule (1) shall be returned to the applicant for rectification or if in the opinion of the Loans Officer it is not possible to rectify the application, it shall be rejected.

NOTE.—Printed copies of Form A may be obtained, free of charge, from all Revenue Inspectors and village headmen.

VIII. *Procedure on receipt of application.*—(1) On receipt of an application for a loan the Loans Officer shall satisfy himself by scrutiny of the application whether a decree or order has already been passed in respect of the debts in question by a civil court or Debt Conciliation Board. If the decree or order is found to have been passed before the commencement of the Madras Agriculturists Relief Act, 1938, the application shall immediately be returned to the applicant with instructions to apply to the civil court under section 19 of that Act or to the Debt Conciliation Board concerned for a modification of the decree or order with reference to the provisions of that Act.

(2) If the decree or order was passed after the commencement of the Madras Agriculturists Relief Act, 1938, the Loans Officer shall immediately scrutinize the copy of the decree or order of the civil court or Debt Conciliation Board furnished by the applicant, and, after such enquiry, if any, as he considers necessary, satisfy himself that the loan, if granted, will effectually relieve the applicant from his indebtedness or at least discharge the entire encumbrance on a definable part of the applicant's property as determined by the decree or order.

(3) Where no decree or order has been passed and a separate Debt Conciliation Board has been established in the revenue division in which the applicant ordinarily resides or in which the property is situated, the Loans Officer shall, if the debt can be scaled down under the Madras Agriculturists Relief Act, 1938, return the application to the applicant with instructions to apply to the Debt Conciliation Board for a scaling down of the debts under that Act.

(4) Where no decree or order has been passed, and no Debt Conciliation Board has been established in the revenue division in which the applicant ordinarily resides or the property is situated, the Loans Officer shall satisfy himself, by communication with the creditors of the applicant or otherwise that the loan, if granted, will discharge all the debts of the applicant or the whole encumbrance on a definable part of his property after the scaling down of debts effected by the Loans Officer under sub-rule (2) of rule IV in accordance with the provisions of the Madras Agriculturists Relief Act, 1938.

(5) (i) In cases falling under sub-rule (4), notices shall be issued by the Loans Officer—

(a) to the applicant in Form B, and

(b) to the creditors in Form C

to appear in person with the documents and other records and on a day mentioned in the notice. On the receipt of all the documents and records connected with the claims of the creditors, the Loans Officer shall scrutinize them and shall examine the creditors and the applicant and make such other enquiry as he may think fit in respect of the nature, binding character and amount of each claim. He shall then scale down the debts under the Madras Agriculturists Relief Act, 1938, if both the applicant and his creditor or creditors agree to the scaling down and there is a *prima facie* probability that after such scaling down he will be able under the rules to grant a loan sufficient to discharge all such debts or the whole encumbrance on a definable part of the applicant's property.

(ii) If every creditor agrees to take in full settlement of his claim the amount fixed after such scaling down, the Loans Officer shall by an order in Form E inform the applicant and the creditor or creditors—

(a) that, subject to the results of the enquiry under rule IX proving satisfactory and subject also to the furnishing by the applicant of adequate security, a loan equivalent to the sum total of the amounts fixed as payable to each creditor, rounded off, if necessary to the next higher multiple of ten rupees, will be sanctioned, provided that such amount represents either the applicant's total debts or the total encumbrance on a definable part of his property; and

(b) that the loan, when granted shall be disbursed direct to the creditors concerned in accordance with the amounts fixed under clause (1) as payable to them respectively and the excess, if any, sanctioned for rounding off shall be disbursed to the applicant.

(iii) Before issuing such order the Loans Officer shall obtain a signed statement in Form D from each of the creditors to the effect that he will take payment of the amount fixed under clause (1) in respect of his claim, on the date and at the place fixed by the disbursing officer.

(iv) If any creditor does not agree to accept the amount fixed under clause (i) the Loans Officer shall reject the application if the amount which the creditor refuses to accept forms part of the applicant's debts or, as the case may be, of the total encumbrance on a definable part of the applicant's property, for the discharge of which the loan is applied for.

(v) After an order in Form E is passed in cases covered by sub-rule (4) and in all cases covered by sub-rule (2), notice of local enquiry shall be issued in Form F to the applicant and to all his ascertained creditors.

IX. *Local enquiry.*—(1) No loan shall be sanctioned without a local enquiry by the Loans Officer or, by any other officer who may be deputed by him in this behalf. When it is proposed to grant a loan the Loans Officer or any other officer deputed by him to hold the local enquiry shall cause a notice in Form F to be put up in the village chavadi, or if there is no village chavadi, in a conspicuous place in the village. The notice shall state that he intends to hold an enquiry into the application on a day mentioned in the notice and will be prepared to receive and consider objections to the grant of the loan. Copies of this notice shall be served on, or sent by post to, the applicant and all the creditors mentioned in the loan application whom it is proposed to pay off with the loan applied for. On the day mentioned in the notice, or on any other day to which the enquiry may from time to time be adjourned, the Loans Officer or other officer holding the enquiry, shall inspect the lands mentioned in the application and make enquiry as expeditiously as possible in the village as to the correctness of the statements made by the applicant, calling if necessary, for the relevant documents from the applicant and such of the creditors or other persons interested as may be present. The *bona fides* and the solvency of the applicant, the sufficiency of the security offered and his capacity to repay the loan, shall be carefully ascertained in the manner prescribed in rule XII of the Madras Land Improvement and Agriculturists' Loans (General) Rules, 1933. Very careful and exhaustive enquiry shall be made regarding the title of the applicant to the lands offered by him as security. The Loans Officer or other officer holding the enquiry, shall also require the village officers to furnish a statement in Form G.

(2) On the completion of the enquiry, the officer holding it shall prepare a record of the enquiry in Form H. If the enquiring officer is not the Loans Officer, he shall submit a report of the results of his enquiry in Form H together with the loan application and other connected documents and records to such officer.

X. *Security.*—(1) No loan shall be granted unless the value of the security offered is not less than two and a half times the amount of the loan as finally ascertained under these rules.

(2) The arable land, of which the applicant is the owner or in which he has the occupancy right, or so much of it as will be sufficient under sub-rule (1), shall be the security for the loan.

(3) Where the loan discharges all the debts of the applicant, all the arable lands of which the applicant is the owner or in which he has the occupancy right shall be mortgaged to the Government, even though a portion of it may be sufficient security under sub-rule (1).

(4) The Loans Officer shall obtain an encumbrance certificate, for a period of not less than twelve years preceding the date of the application for the loan, in respect of the lands offered as security by the applicant.

XI. *Rate of interest.*—The rate of interest shall be 6½ per cent per annum.

XII. *Method and period of repayment.*—(1) Loans shall be repayable by equal annual instalments discharging both principal and interest in the manner laid down in rule VI of the Madras Land Improvement and Agriculturists' Loans (General) Rules, 1933. The date for the repayment of each annual instalment shall be fixed in accordance with the provisions of the said rule. The first instalment shall be payable not later than twelve months from the date of the disbursement of the loan or of the last portion of the loan:

Provided that where the interval between the disbursement of the loan or of the last portion thereof and the date fixed for the payment of the first instalment is less than twelve months, the amount of the first instalment shall be the simple interest on the loan or the aggregate of the simple interest on each portion of the loan, from the date of its actual disbursement to the date on which the payment of such first instalment is due.

(2) The maximum number of annual instalments in which the loan shall be repaid shall not exceed 20 ordinarily or 30 in special cases. The annual instalments shall be fixed by the Loans Officer with due regard to the capacity of the borrower to repay the loan.

XIII. *Grant of loans and rejection of loan applications.*—(1) If, on the completion of the local enquiry and of such further investigation as may be considered necessary, the Loans Officer is satisfied that the loan may be granted, he shall record a decision to that effect, which shall be appended to the record of the enquiry in Form H and shall take immediate steps for the issue of an order granting the loan, and directing to whom and in what amounts, it should be disbursed. The order granting the loan shall be in Form I.

(2) If, as a result of the local enquiry or further investigation, the Loans Officer is satisfied—

- (a) that the application is not *bona fide*, or
 - (b) that the applicant is not solvent, or
 - (c) that the security offered by the applicant is not sufficient, or
 - (d) that the conditions laid down in these rules have not been complied with
- he shall reject the application and intimate such rejection to the applicant and his creditors in Form L.

XIV. *Disbursement of loans.*—(1) Every loan sanctioned under these rules shall be disbursed by the Loans Officer.

(2) When the Loans Officer has recorded a decision that the loan may be granted, he shall issue a notice in Form J to the applicant to appear, to sign and receive the loan order and to execute a security bond in Form K. The Loans Officer shall also issue a notice in Form M, to the creditor or each creditor, as the case may be, to appear in person or by duly authorized agent, on the date fixed for the appearance of the applicant and to take payment of the amount payable in satisfaction of his claim.

(3) Every creditor or his authorized agent, who appears in compliance with a notice under sub-rule (2) shall, before receiving payment, sign and hand over to the disbursing officer a valid acquittance in Form N, of the claim against the applicant and, shall also if he has not already done so, surrender to the Loans Officer all documents relating to the claim as so discharged.

XV. *Application of general rules.*—The provisions contained in the Madras Land Improvement and Agriculturists' Loans (General) Rules, 1933, shall also apply to the loans granted under these rules in so far as they have not been varied by, or are not inconsistent with, the specific provisions contained in these rules.

FORM A.

[See Rule VII.]

Application for loan.

1. Name of the village of the applicant or applicants.

2. The following particulars in respect of the applicant or each of the applicants:—

- (i) Name
- (ii) Father's name
- (iii) Religion and caste
- (iv) Age

3. The relationship of the applicants to one another.

4. Residence and occupation of the applicant or applicants—

- (i)
- (ii)

5. Amount of loan required.

6. (a) Particulars of the land owned by the applicant or applicants—

Name of the village.	Government of the samindari, jirayati or inam.	Description wet or dry, etc.	Survey number.	Extent.	Assessment.	Number and name of the registered holder.
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Rights of others in the property.

Nature of title to the land.	Present market value of the land.	Name.	Nature and extent of right whether as co-sharer, mortgages, etc.	Remarks if any of the enquiring officer.
(8)	(9)	(10)	(11)	(12)

NOTE.—Particulars of the mortgages, if any, to the Government should also be included in this statement.

(b) Particulars of lands offered as security by the applicant.

Name of the village.	Government of the samindari, jirayati or inam.	Description wet or dry, etc.	Survey number.	Extent.	Assessment.	Number and name of the registered holder.
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Rights of others in the property.

Nature of title to the land.	Present market value of the land.	Name.	Nature and extent of right whether as co-sharer, mortgages, etc.	Remarks if any of the enquiring officer.
(8)	(9)	(10)	(11)	(12)

NOTE.—(1) Particulars of the nature and extent of encumbrances should be entered in columns (10) and (11).

(2) Particulars of the mortgages, if any, to the Government should also be included in this statement.

7. Total of the existing debts of the applicant—

Creditor's name.	Mortgage deed or promissory note (if mortgaged) particulars of lands (mortgaged)	Date.	Amount borrowed.	Rate of interest.	Amount due to creditors for which less repayments.	Purpose for which incurred.
(1)	(2)	(3)	(4)	(5)	(6)	(7)

If there has been a decree or order in respect of the debt, the Court or the Conciliation Board which passed the decree or order.	Number and date of the decree or order.	Amount decreed or ordered to be paid under the principal, interest and costs.	If there has been no decree or order, amount of debt liable to be scaled down under the Madras Agriculturists Relief Act, 1938.	Whether the creditors have agreed to such scaling down.
(8)	(9)	(10)	(11)	(12)

NOTE.—Particulars of the mortgages, if any, to the Government should also be included in this statement.

8. Do the other interested persons support the loan application. If so, secure their signatures here as a token of consent.

9. The lands to be mortgaged are not subject to any mortgage or encumbrance or sale, etc., other than the mortgage debts to be discharged by raising this loan and the mortgage to the Government, if any, as detailed in the statement under item 7. Further these lands have not been subject to any sale or auction either by Civil Court or by the Revenue Department. I declare that there are no encumbrances, debts, liabilities other than those mentioned against column (6) above.

10. I hereby solemnly declare that all the information given in this application is true. I bind myself on notice from you to appear with my creditors and file all documents and vouchers and take the loan amount that may be sanctioned. If any delay be caused by my non-appearance in time, it will rest in your discretion to reject the application or cancel the loan order. I also bind myself not to contract any further debts secured or unsecured and also not to dispose of, alienate or encumber in any other way the properties mentioned in paragraph 6 above till final orders are passed on this application.

Signature of the applicant.

Date and address.

FORM B.

[See Rule VIII (5) (i).]

Notice to the applicant.

To _____, son of _____, residing at _____ village, _____ taluk.

Your application dated _____ for a loan of Rs. _____ has been received. An enquiry about the application and the amount of debts due by you will be held by me on _____ at _____. You are hereby directed to appear before me on that date with all your creditors whom it is proposed to pay off with the loan applied for and the documents concerned including those substantiating your title to the properties proposed to be mortgaged to the Government.

If you fail to appear, your application is liable to be rejected.

(Signed)

Revenue Divisional Officer.
Tahsildar.
Deputy Tahsildar.

FORM C.

[See Rule VIII (5) (i).]

Notice to the creditor.

Whereas _____, son of _____, residing at _____ village, _____ taluk, has applied for a loan of Rs. _____ for the discharge of the debt due to you as shown in the margin as well as debts due to others and whereas I propose to hold an enquiry into the application and the debts of the applicant on _____ at _____ you are hereby directed to appear before me on that date with the documents in support of the debt due to you by the applicant.

(Signed)

Revenue Divisional Officer.
Tahsildar.
Deputy Tahsildar.

FORM D.

[See Rule VIII (5) (iii).]

Statement of creditor.

I _____, son of _____, residing at _____ village, _____ taluk, have _____
Revenue Divisional Officer
Tahsildar
at the enquiry held by the _____
Deputy Tahsildar
_____ on _____ into the loan application of _____ residing at _____ village, _____ taluk, agreed to accept a sum of Rs. _____ from the Government in entire discharge of the debt to me by the said _____ on the _____
Promissory note
mortgage deed dated in _____
document
_____ case the _____
Revenue Divisional Officer
Tahsildar
Deputy Tahsildar finally decides after

detailed enquiry to sanction a loan to the applicant. I hereby bind myself to appear before the disbursing officer on the date fixed by him in the notice to be issued by him and receive payment of the abovesaid sum of Rs. _____

FORM E

[See Rule VIII (5) (ii) and (v).]

Order of the Loans Officer.

Whereas at the enquiry held by me on _____ into the loan application of _____, son of _____, residing at _____ village, _____ taluk, the creditor (or creditors) of the applicant named in the margin has (or have) agreed to accept the sum (or sums) noted against him (or them) in entire discharge of the debt to him (or them) by the said _____

Name of creditor.	Date of promote, mortgage or other document.	Amount accepted (in figures and words).
(1)	(2)	(3)
		Rs.

_____ the said _____ and the said creditor (or creditors) are hereby informed that subject to the results of the detailed local enquiry proving satisfactory and to the furnishing by the applicant of adequate security, a loan of Rs. _____ will be sanctioned to the said _____ Such loan will be disbursed to the creditor (or creditors) direct by the undersigned according to the amount (or amounts) noted against him (or them) in the margin. The sum, if any, in excess of the amount payable direct to the creditor (or creditors) will be disbursed to the applicant.

(Signed)

Revenue Divisional Officer.
Tahsildar.
Deputy Tahsildar.

Camp

Dated

To the applicant
" creditor (or each creditor)
" officer conducting the local enquiry with the application.

FORM F.

[See Rules VIII and IX.]

Notice of enquiry to be held in connexion with applications for loans.

Notice is hereby given that _____, son of _____, residing at _____ village, _____ taluk, has applied for a loan of Rs. _____ from the Government for the purpose of discharging the debts due by him to the following creditor or creditors:—
Name* of creditor.
Father's name.
Residing at _____

The following lands have been offered as security for the loan:—

Taluk.	Village.	Nature of land.		Assessment. Rs.
		Survey number.	Extent.	

The undersigned will hold a local enquiry in the village in connexion with the application on _____ and will be prepared to receive and consider objections to the grant of the loan which should be made either in person or in writing on that date.

Date

Designation.

* In cases covered by a decree or order passed by a civil court or a Debt Conciliation Board the name of the court or the Board which passed the decree or the order and the number and date of the decree or the order with the amount decreed or ordered to be paid should also be entered here.

FORM G.

[See Rule IX.]

Statement to be obtained from Village Officers.

- 1 Name of the applicant and of his father.
- 2 Are the particulars given in columns 2 to 7 of items 6 (a) and (b) in the application correct?
Where there is a variation give the correct figure (verify each item and certify to that effect).

- 3 Are the lands in the possession and enjoyment of the applicant? Does he enjoy them with full rights of disposition by sale, gift or otherwise?
- 4 Are there co-owners (such as brothers or collaterals) who enjoy the land in common with the applicant and, if so, what are their names and relationship to the applicant and their interest in the lands? Do they object to the grant of the loan?
- 5 If the applicant is a Hindu widow, who are her reversioners?
- 6 Are the lands of the applicant encumbered or attached by or subject to a decree of a civil court? If so, what are the encumbrances—mortgages including mortgages, if any, to the Government, maintenance charges, etc.
- 7 What is the present estimated value, based on the market value of similar lands in the neighbourhood of—
 - (i) the lands owned by the applicant.
 - (ii) the lands proposed to be mortgaged.

Give the prices for which adjacent lands were sold during the last three years, quoting their survey numbers, extent and assessment.
- 8 What is the arrear of land revenue, if any, due on the lands mortgaged.
- 9 If the applicant has taken loans from the Government previously, was he regular and prompt in their repayment? Are any such loans still outstanding? If so, give particulars of such loans.
- 10 (a) Has the applicant any debts besides those mentioned in the application?
- (b) Does he possess any lands besides those mentioned in the application either in your village or elsewhere and, if so, give particulars of village, survey number, extent, classification and estimated value.
- (c) Give the following particulars with regard to the repaying capacity of the applicant:—
 - (1) Probable annual income from—
 - (i) Lands.
 - (ii) Other sources.
 - (iii) Total income.
 - (2) Probable annual expenditure for—
 - (i) Cultivation.
 - (ii) Household expenses (give number of members of the family).
 - (iii) Government kist.
 - (iv) Other expenses.
 - (v) Total expenditure.
 - (3) Probable savings for a year.
- (d) Has the applicant ever borrowed from any co-operative society? If so, was he regular in repaying his debts and were his lands ever brought to sale?
- (e) Is the sanction of the loan a real and necessary relief to the applicant or is the loan so insignificant considering the status of the applicant as not to warrant the grant of special relief by the Government?

Village Headman and Karnam.

FORM H.

[See Rules IX and XIII.]

Record of the Local enquiry.

(Application under the Agriculturists' Loans Act, 1884, as amended by Madras Act XVI of 1935.)

- 1 Serial number of application.
- 2 (i) Name and village of applicant.
- (ii) Amount of loan applied for.
- 3 Have the particulars regarding survey number, description, etc., given in columns 1 to 7 of the loan application in respect of the following items been verified and are they correct?
 - (i) Lands owned by the applicant.
 - (ii) The lands proposed to be mortgaged.
- 4 (i) Is the applicant the sole owner of the lands, or does he own them in common with any others? And, if the latter, is he the managing member of the family of which the others are members? If not, has their consent to the loan application been taken in writing?

- (ii) If the applicant is a tenant, does he possess any, and if so, what transferable interest in the lands, and has notice under Rule XIV of the Madras Land Improvement and Agriculturists' Loans (General) Rules, 1933, been served on the landholder; if so, on what date, and has he objected to the grant of the loan?
- (iii) If the application has been made on behalf of a minor, is the application signed by his legally constituted guardian? Give particulars as to the extent and nature of the minor's interest in the land.
- (iv) If the applicant is a Hindu widow, do her reversionary heirs consent to the loan application and have their signatures been taken in token of their consent?
- 5 Are any loans obtained by him previously from the Government still outstanding? If so, give particulars of such loans.
- 6 Is he in arrears to the Government for land revenue or for any instalment of a loan previously obtained or in arrears of rent to the landlord or in arrears of wages?
- 7 What is the present estimated value (based on the market value of similar lands in the neighbourhood) of—
 - (i) The lands owned by the applicant.
 - (ii) The lands proposed to be mortgaged.
- 8 Are there any pre-existing encumbrances on the lands proposed to be mortgaged by the applicant, including mortgages, if any, to the Government? What are the names of the mortgagees and the amount of their claims? (Enclose the encumbrance certificate obtained from the Registration Department.) What is the present estimated value of the applicant's interests in the lands proposed to be mortgaged?
- 9 What are your remarks on the liabilities of the applicant and his repaying capacity? Is he capable of repaying the loan?
- 10 Objection of third parties, if any, to the proposed loan.
- 11 * Recommendation of the officer conducting the local enquiry.

* To be filled in only when the enquiring officer is not the Loans Officer.

Signature and designation.

12 Decision of the Loans Officer—

(To be filled in by the Loans Officer in his own hand.)

- (1) Total amount of loan sanctioned.
- (2) Purpose. Names of the awarded. Amount the creditors. If there is a decree or order by a civil court or Debt Conciliation Board the amount so decreed or ordered to be paid.
- (3) The number of annual instalments in which the loan should be repaid and reasons for fixing that number.

- (4) Amount of annual instalment—
- | | |
|--------------|-----|
| | RS. |
| Principal .. | |
| Interest .. | |
| Total .. | |
- (5) Due date of payment—
Kist commencing with fasli.

Full signature of the Loans Officer.

FORM I.

[See Rule XIII (1).]

Order granting a loan under the Agriculturists' Loans Act, 1884, as amended by Madras Act XVI of 1935.

No. of

1. The sum of Rs. _____ is granted to _____ caste _____ calling _____ son of _____ residing at _____ the record of which is hereto annexed) and the duly constituted guardian of _____ son of _____ residing at _____ a minor of the _____ of _____ years as a loan under the Agriculturists' Loans Act, 1884, as amended by Madras Act XVI of 1935, for the discharge of the debt due to * _____ subject to the following conditions:—

2. The conditions referred to are as follows:—

(a) (i) That on the execution of the necessary security bonds by the aforesaid _____ the amount of the loan shall be disbursed to the aforesaid creditor as follows:—

Name of creditor.	Nature of debt.	Date of loan.	Document number if it is registered.	Amount to be paid.
(1)	(2)	(3)	(4)	(5)
				RS.

(ii) If it shall be proved to the satisfaction of the Loans Officer that the lands offered as security for the loan have been subsequently mortgaged for other loans without his previous permission the whole unpaid balance of the loan or such portion of it as the Loans Officer may determine with interest thereon calculated as prescribed in rule XXIV of the Madras Land Improvement and Agriculturists' Loans (General) Rules, 1933, and costs, if any, shall be deemed to become due at once.

(b) (i) That the loan with the interest thereon at 6½ per cent shall be repaid by equal annual instalments of Rs. _____ each falling due with the _____ kist commencing with fasli _____ If the period intervening between the disbursement of the loan or of the last portion thereof and the date fixed for the repayment of the first instalment is less than 12 months, the first instalment to be paid shall represent only the simple interest on the loan or the aggregate of the simple interest on each portion of the loan from the date of its actual disbursement to the date on which payment of such first instalment is due;

(ii) such annual payment shall be made to the village officers or at the Treasury of _____

(iii) if default be made in the repayment of the loan with interest as provided for in clause 2 (b) hereof and the same is not paid before the close of the revenue year in which payment falls due, then interest shall be charged on the instalment or the balance of instalment so remaining unpaid at 1 anna per ten rupees per mensem in the manner prescribed in rule XXIII of the Madras Land Improvement and Agriculturists' Loans (General) Rules, 1933; and

(iv) if default in the payment of annual instalment on account of the loan occurs and recovery cannot otherwise be made, the entire unpaid balance of the loan or such portion of it as the Loans Officer may determine shall be deemed to

* Here enter the name or names of the creditors and the amount (and in cases covered by decree or orders passed by a Civil Court or a Debt Conciliation Board, also the number and date of the decree and the name of the Court or the Board concerned).

become due at once and the whole of the land specified in condition (c) or such portion of it as the Loans Officer may deem necessary shall be sold for the recovery of the loan with interest thereon calculated as prescribed in rule XXIV of the Madras Land Improvement and Agriculturists' Loans (General) Rules, 1933, and the expenses of sale, if any.

(c) † That for the repayment of the amount due or becoming due hereunder the lands specified below are hypothecated as security to the Government.

Revenue Divisional Officer.

Tahsildar.

Deputy Tahsildar.

I have understood and agree to the aforesaid terms and conditions.

Signature of Borrower.

Note.—The words in italics in paragraph 1 of this form are specially intended for the loans granted to minors and may be struck out in other cases.

Recoveries.

Date of payment.	Amount paid.	Signature (with date) and designation of the officer receiving the payment.
(1)	(2)	(3)
	RS.	

FORM J.

[See Rule XIV (2).]

Notice to applicant.

Application No. _____ of _____ on the file of the Loans Officer of _____ To _____ son of _____ residing at _____ hamlet of _____ village.

You are hereby required to appear in person before _____ on _____ at _____ to sign and receive the loan order and to execute the necessary documents furnishing security.

If you fail to appear, your application is liable to be rejected.

Camp

Date

Revenue Divisional Officer.

Tahsildar.

Deputy Tahsildar.

FORM K.

[See Rule XIV (2).]

Security bond to be executed by a borrower or borrowers.

THIS instrument made the _____ day of _____ between _____ (hereinafter called 'the mortgagor') of the one part and His Excellency the Governor of Madras of the other part.

Whereas the property more particularly described in the schedule hereto belongs to a minor of the age of _____ years (hereinafter called 'The minor') and whereas the mortgagor herein is the duly constituted guardian of the said minor and whereas the mortgagor as such guardian has applied for and has received from the _____ acting for and on behalf of the Government of Madras (hereinafter called the Government) an order under the Agriculturists' Loans Act, 1884, as amended by Madras Act XVI of 1935, and dated the _____ day of _____ in virtue of which the mortgagor as such guardian is entitled to receive the aggregate sum of _____ rupees as a loan from the Government for the purpose of _____

AND WHEREAS security for the punctual repayment of the same, according to the terms of the said order, is demanded by or on behalf of the mortgagee and in order to furnish such security the mortgagor has agreed to sign these presents and whereas the mortgagor being satisfied that a mortgage of the piece or parcel of land intended to be hereby granted, conveyed and assigned for the purpose of securing the

† All lands hypothecated by the applicant should be specified in clause (c) of the order granting the loan and such property should be described as nearly as may be in the manner prescribed in section 21 of the Indian Registration Act, 1908.

said loan is for the benefit of and advantageous to the minor and his estate.

NOW THESE PRESENTS WITNESS that in consideration of the said loan and in pursuance of the said agreement the mortgagor on behalf of the said minor and in exercise of the powers for this purpose given to or vested in him as such guardian as aforesaid and of all and every other power enabling him in this behalf doth hereby transfer to the Government, their successors and assigns, the lands described in the schedule hereunder written with the appurtenances thereto, subject to redemption as hereinafter mentioned.

AND it is hereby agreed that if the mortgagor, his successors and assigns or the said minor shall duly comply with the terms on which the said loan has been granted and shall duly repay the amount of the said loan together with any interest which may have become payable thereon or on any part thereof and all costs if any, incurred by the Government, their successors or assigns in making the said loan or otherwise in connexion therewith, the Government, their successors or assigns shall thereupon retransfer the said lands to the mortgagor, his legal representatives or assigns or the said minor or as he or they shall direct.

PROVIDED ALWAYS and it is hereby agreed that in case the mortgagor, his successors or assigns or the said minor shall fail to comply with the terms on which the said loan has been granted or shall not duly repay the amount of the said loan or any part thereof or any interest thereon or on any part thereof or any such costs as aforesaid, then and in any such case it shall be lawful for the Government, their successors and assigns or the

for the time being of to sell the said lands or any part thereof and out of the proceeds of such sale to make good to the Government, their successors, or assigns, the amount which, in consequence of any such default, shall be payable by the mortgagor, his successors, or assigns or the said under the terms of the said order.

Provided also that the rights and remedies contained herein shall not in any way prejudice affect or limit the Government's rights under the Act.

In witness whereof the mortgagor has hereunto set his hand the day and year first above written.

The schedule above referred to.

Registration district.	Registration sub-district.	Village.	Survey number.	Wet or dry.	Extent.	Assessment.	Trees, wells etc.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
					ACS.	RS.	

(Signed)

Signature of borrower.

Witness—

(Signed) (1) , son of , village of
() (2) , son of , village of

Signed by the abovenamed } (Signed)
borrower and witnesses in the presence of the

Revenue Divisional Officer.
Tahsildar.
Deputy Tahsildar.

NOTE.—The words in italics in this form are specially intended for loans granted to minors and may be struck out in other cases.

FORM L.

[See Rule XIII (2).]

Notice intimating the rejection of application.

Application No. of on the file of
Revenue Divisional Officer
the Tahsildar of (Name)
Deputy Tahsildar of village is hereby informed that his application for a loan of Rs. under the Agriculturists' Loans Act, 1884, as amended

by Madras Act XVI of 1935, has been rejected for (state here briefly the grounds of rejection).

Station } Revenue Divisional Officer.
Date } Tahsildar.
Deputy Tahsildar.

To the applicant
Copy to his creditor (or each of his creditors).

FORM M.

[See Rule XIV (2).]

Notice to creditor (or creditors).

Application of on the file of the

Revenue Divisional Officer
Tahsildar of
Deputy Tahsildar

To son of
residing at hamlet of
village you are hereby required to
appear in person or by duly authorized agent before
me on and receive payment of the
amount due to you from the said

Camp } Revenue Divisional Officer.
Date } Tahsildar.
Deputy Tahsildar.

FORM N.

[See Rule XIV (3).]

Receipt for the payment of loan.

Treasury district month of 19

Head of service chargeable. Number of voucher.
(1) (2)

Received this day of
19 the sum of
Rs. being the amount
due to me (name)
of in
full settlement of the amount
due to me under the
pro-note
mortgage deed
decree of the Court in No.
Order of the D.C. Board in No.
dated from* the
horrower in loan order No.
dated of 19
under the Agriculturists' Loans
Act, 1884, as amended by
Madras Act XVI of 1935. The
said pro-note
said mortgage deed
copy of the said decree of the Court
in No.
copy of the said order of the D.C.
Board in No.
is herewith attached with the
discharge of the debt duly certified thereon.

Claimant's signature.

(Stamp, if required)

* Here enter the name of the borrower.

Fort St. George, September 8, 1938.

No. 773.—In exercise of the powers conferred by sub-clause (ii) of clause (b) of section 17 of the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923), the Government of Madras are hereby pleased to direct the survey under the provisions of the said Act of the lands specified below in the village of Kunichampatti in the Uthumalai estate of the Tenkasi taluk, Tinnevely district, required for the formation of a road to Kurunthamozhi:—

Kannar Nos. 3-2, 3-16, 3-17, 3-18, 3-21, 3-27, 2-28, 2-23, 2-24, 2-22, 2-21, 2-20, 1-25, 1-26, 1-27, and 1-28, patta dry lands.

New well-irrigated patta dry land No. 2-28.

Dry on wet patta lands Nos. 22, 24, 25 and 26.

Fort St. George, September 8, 1938.

No. 774.—In exercise of the powers conferred by section 5 of the Madras Survey and Boundaries Act of 1923 (Madras Act VIII of 1923), the Government of Madras hereby direct the survey under the provisions of the said Act of the boundaries common to the estate

lands required for a labour well-site in S. No. 170 of Ithakota village in Razole taluk of East Godavari district and the adjoining Government lands in the said village.

No. 775.—In exercise of the powers conferred by sub-clause (ii) of clause (b) of section 17 of the Madras Survey and Boundaries Act of 1923 (Madras Act VIII of 1923), the Government of Madras hereby direct the survey under the provisions of the said Act, of the land required for a labour well-site in S. No. 170 of Ithakota village in Razole taluk, East Godavari district.

No. 776.—In exercise of the powers delegated under section 17 (b) (ii) of the Madras Survey and Boundaries Act VIII of 1923, the Government of Madras hereby direct the survey under the provisions of the said Act of the land in S. No. 20, zamindari, dry, required for a park in front of the Public Works Department rest-house in the village of Bhadrachalam in Bhadrachalam taluk of the East Godavari district.

No. 777.—In exercise of the powers delegated under section 5 of the Madras Survey and Boundaries Act VIII of 1923, the Government of Madras hereby direct the survey under the provisions of the said Act of the boundaries common to the estate lands required for a park in front of the Public Works Department rest-house in the village of Bhadrachalam in the Bhadrachalam taluk of the East Godavari district and the adjoining Government lands in the said village.

ACQUISITION OF TREES.

Fort St. George, August 31, 1938.

Under section 6 of the Land Acquisition Act, the Government of Madras hereby declare that the kudivaram right over the other item palmyras numbering 56, specified below, is needed for a public purpose, to wit, for alienation of the site where the trees stand to Pandarasivan Memorial Boys School at Kulasekarapatnam; and, under sections 3 and 7 of the same act, the Sub-Collector, Tuticorin, is appointed to perform the functions of a Collector under the Act and directed to take order for the acquisition of the said land. A plan of the land is kept in the office of the Sub-Collector, Tuticorin, and may be inspected at any time during office hours.

Tinnevely district, Tiruchendur taluk,
Kulasekarapatnam village.

Mis. Patta No. 38, the kudivaram rights over 41 other item palmyras in S. No. 78-17, belonging to C. D. Nayagam, bounded on the north by S. No. 78-11 A, 16 & 11 B and Karungali Amman Koll Nandavanam and portions alienated as playground, etc., to Thayammal Girls School and Thayammal Girls School Playground; east by S. No. 78-11 A and houses and playground of Pandarasivan Memorial Boys School; south by S. No. 78-11 A and S. Viravaghu Pillai's garden and the house and garden of B. M. S. Ramanatha Pillai; west by S. No. 78-11 A and Vinayagar Koll Nandavanam and Karungali Amman Temple	Kudivaram share of 41 other item palmyras.
--	--

Mis. Patta No. 41, the kudivaram right over 15 palmyras in S. No. 78-17, belonging to C. D. Nayagam and K. V. Subbayya Pillai, bounded on the north by S. No. 78-11 A, 16 & 11 B and Karungali Amman Koll Nandavanam and portions alienated as playground, etc., to Thayammal Girls School and Thayammal Girls School Playground; east by S. No. 78-11 A and houses and playground of Pandarasivan Memorial Boys School; south by S. No. 78-11 A and S. Viravaghu Pillai's garden and the house and garden of B. M. S. Ramanatha Pillai; west by S. No. 78-11 A and Vinayagar Koll Nandavanam and Karungali Amman Temple	Kudivaram share of 15 other item palmyras.
--	--

ACQUISITION OF LAND.

Fort St. George, September 5, 1938.

Whereas it appears to the Government of Madras that the land specified below is needed for a public purpose, to wit, for the diversion of the spring channel and formation of a surplus escape at the left flank of Kosavankuttal eri, notice to that effect is hereby given to all whom it may concern in accordance with the provisions of section 4 (1) of the Land Acquisition Act I of 1894, as amended by the Land Acquisition Amendment Act

XXXVIII of 1923; and, the Government of Madras hereby authorize the Revenue Divisional Officer, Tirupattur, his staff and workmen to exercise the powers conferred by section 4 (2) of the Act. Under section 3 (c) of the same Act, the Government of Madras appoint the Revenue Divisional Officer, Tirupattur, to perform the functions of a Collector under section 5-A of the Act.

North Arcot district, Tirupattur taluk,
Athurkuppam village.

	Approximate extent.
Government, wet, S. No. 196-2, registered holders Kalappa Reddi and Rama Reddi, enjoyer Kalappa Reddi, bounded on the north by No. 195; east by No. 442-1 & 2; south and west by No. 196-1	0-08
Government, dry, S. No. 442-1, registered holder and enjoyer Venkatarama Kavandan, mortgagee Kanthammal, bounded on the north and east by No. 441; south by No. 442-2; west by No. 196-2	0-05
Total	0-08

B. G. HOLDSWORTH,
Secretary to Government.

DEVELOPMENT DEPARTMENT.

EXTENSION OF LEAVE.

Fort St. George, September 2, 1938.

No. 706.—Sri K. Rangaswami Nayudu, Deputy Registrar of Co-operative Societies, extension of leave on half average pay out of India for eight months from 12th August 1938.

C. J. PAUL,
Secretary to Government.

APPOINTMENTS.

Fort St. George, September 5, 1938.

No. 707.—Sri T. Virayaka Mudaliyar, Officiating District Veterinary Officer, to be a full member of the Madras Veterinary Service in category 4 of Class I, viz., as District Veterinary Officer, with effect from 9th June 1938.

R. RAMASWAMI AYYANGAR,
Assistant Secretary to Government.

Fort St. George, September 6, 1938.

No. 708.—Sri K. Subrahmanyam Nayudu, Deputy Registrar of Co-operative Societies, on return from leave, to the temporary post of Deputy Registrar created for work in connexion with the Committee on Co-operation.

Fort St. George, September 7, 1938.

No. 709.—Sri G. Venkatanarayana, Assistant in Oil Seeds, Kasaragod, to be temporary Superintendent, Coconut Research Stations, Kasaragod.

C. J. PAUL,
Secretary to Government.

Fort St. George, September 9, 1938.

No. 710.—Sri A. Gopalakrishnayya Nayudu, permanent upper subordinate, Agricultural Section, second grade, and officiating temporarily as Superintendent, Livestock Research Station, Hosur, to officiate as Assistant Director of Agriculture, Guntur, with effect from date of taking charge.

POSTINGS.

No. 711.—Mr. V. G. Darrington, Deputy Conservator of Forests and District Forest Officer, Tinnevely Division, to be attached to the office of the Chief Conservator of Forests, on special duty, for three months from date of joining.

No. 712.—Sri N. S. Ghate, Deputy Conservator of Forests attached to the Tinnevely Division, to be District Forest Officer of the same division, in relief of Mr. V. G. Darrington, Deputy Conservator of Forests.

A. KHALEELI,
Under Secretary to Government.

ERRATA.

Fort St. George, September 2, 1938.

In the notification under section 4 (1) of the Land Acquisition Act I of 1894, as amended by the Land Acquisition Amendment Act XXXVIII of 1923, published at page 1817 of Part I of the *Fort St. George Gazette*, dated 28th October 1937, in respect of the lands to be acquired for the provision of house-sites for Adi-Andhras in East Godavari district, Pittapur taluk, Dharmavaram village—

For the word 'owners,' read 'kudivaramdars and melvaramdars.'
Against melvaramdar, omit 'melvaramdar proprietor of Kirlampudi and Dontemuru "A" Estates, Kirlampudi.'
Against the Surname of the owners, for 'Doddipatta,' read 'Doddilpatta.'
For 'Patta No. 82 part,' read 'Patta No. 32 part surveyed as S. No. 144.'

In the notification under section 4 (1) of the Land Acquisition Act of 1894, as amended by the Land Acquisition Amendment Act XXXVIII of 1923, published at page 99 of Part I of the *Fort St. George Gazette*, dated the 18th January 1938, in respect of the lands to be acquired for the provision of house-sites for Adi-Andhras in the East Godavari district, Cocanada taluk, Penugudur village—

Against names for 'Kalluri Venkata Ramanayya,' read 'Kalluri Suryanarayana.'
Against S. No. 113-1 part, for 'dry,' read 'wet.'

Fort St. George, September 5, 1938.

In the notification under section 6 of the Land Acquisition Act I of 1894, as amended by Act XXXVIII of 1923, published at pages 1188 and 1189 of Part I of the *Fort St. George Gazette*, dated 16th August 1938, in respect of the land to be acquired for erection of double-apron barbed-wire fence by the Customs department in Pagandai village, Cuddalore taluk, South Arcot district—

Against R.S. No. 17-1 in the eastern boundary, for 'No. 28-2,' read 'No. 18-2.'
Against R.S. No. 24-1, in the names of mortgagees, for 'Muthuya Kavandan,' read 'Muthalya Kavandan.'
Against R.S. No. 27-2 A, in the name of the mortgagee, for 'Dolvanayaga Kavandan,' read 'Dolvanayaga Kavandan.'
Against R.S. No. 28-2, in the name of the owner, for 'R. Chinna-swami Kavandan,' read 'R. Siganuswami Kavandan.'
Against R.S. No. 213-2 B, in the names of the mortgagees, for 'Purushotha Reddi,' read 'Purushothama Reddi.'
Against R.S. No. 224-1 B, for 'south and west by No. 224-2 B,' read 'south by R.S. No. 224-2 B; west by R.S. No. 224-1 A.'
Against R.S. No. 235-6 B, in the western boundary, for 'R.S. No. 235-6 B,' read 'No. 235-6 B.'

In the notification under section 6 of the Land Acquisition Act I of 1894, as amended by the Land Acquisition Amendment Act XXXVIII of 1923, published at page 1214 of Part I of the *Fort St. George Gazette*, dated 23rd August 1938, in respect of the land to be acquired for erection of a double apron barbed wire fence by the Customs Department in Mullikrampattu village, Cuddalore taluk, South Arcot district—

For 'Government, dry, R.S. No. 80-3 A,' read 'Government, dry, R.S. No. 80-3 B.'

In the notification published at pages 1213 and 1214 of Part I of the *Fort St. George Gazette*, dated 23rd August 1938, under section 6 of the Land Acquisition Act, as amended by the Land Acquisition Amendment Act XXXVIII of 1923, for the erection of double apron barbed wire fence by the Customs Department in Tirukandawaram village, Cuddalore taluk, South Arcot district—

Against Government, dry, R.S. No. 101-2 B in the western boundary, for 'R.S. No. 103-2 B-3,' read 'R.S. No. 103-2 B-2.'

NOTIFICATIONS.

Fort St. George, September 2, 1938
(G.O. Ms. No. 2164, Development).

No. 713.—

The following notification of the Government of India is republished:—

DEPARTMENT OF COMMERCE.

IMPORT AND EXPORT REGULATIONS.

Simla, the 20th August 1938.

No. 201 (3)-Tr. (I.E.R.)/38.—In exercise of the powers conferred by section 10 of the Indian Tea Control Act, 1938 (VIII of 1938) the Central Government is pleased to direct that the following

amendment shall be made in the Indian Tea Control Act (Electoral) Rules, 1938, namely:—

In rule 5 of the said rules, in sub-clause (ii) of the proviso, for the words " a majority of the shareholders," the following words shall be substituted, namely:—

" the Board of Directors."

Fort St. George, September 3, 1938
(G.O. Ms. No. 2176, Development).

No. 714.—

The following notification of the Government of India is republished:—

DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

AGRICULTURE.

Simla, the 11th August 1938.

No. F. 6-15/38.—The following order issued by the Ministry of Agriculture and Fisheries, London, called " The Importation of Plants (Amendment) Order of 1938 " is published for general information:—

For official use.

STATUTORY RULES AND ORDERS, 1938, No. 517.
DESTRUCTIVE INSECT AND PEST, ENGLAND.

THE IMPORTATION OF PLANTS (AMENDMENT) ORDER OF 1938.

Dated May 12, 1938.

[D.L.P. 601].

The Minister of Agriculture and Fisheries by virtue and in exercise of the powers vested in him under the Destructive Insects and Pests Act, 1877 to 1927 (a), and of every other power enabling him in this behalf, orders as follows:—

Modification of the Importation of Plants Orders of 1933.

1. The Importation of Plants Order of 1933 (b), (herein referred to as " the Principal Order ") as modified by the Importation of Plants (Amendment) Orders of 1934 (c), 1935 (d), 1936 (e), 1936 (No. 2) (f) and 1937 (g) (herein referred to as " the Orders of 1934 to 1937 ") is hereby further modified in the manner provided by this Order.

Restriction on the landing in England or Wales of plants, potatoes, raw vegetables and cider apples grown in Switzerland.

2. The provisions of the Importation of Plants (Amendment) Order of 1936 with respect to plants, potatoes, raw vegetables and cider apples grown in Belgium shall apply to plants, potatoes, raw vegetables and cider apples grown in Switzerland provided that such provisions shall be applied as if where the words " Belgium " and " Belgian " occur in such Order, including the First Schedule thereto, there were substituted in the case of plants, potatoes, raw vegetables and cider apples grown in Switzerland the words " Switzerland " and " Swiss " respectively.

Commencement.

3. This Order shall come into operation on the thirteenth day of June, nineteen hundred and thirty-eight.

Short Title and Construction.

4. This Order may be cited as the Importation of Plants (Amendment) Order of 1938 and shall be read as one with the principal Order and of the Orders of 1934 to 1937 and those Orders and this Order may be cited together as the Importation of Plants Orders of 1933 to 1938.

In witness whereof the Official Seal of the Minister of Agriculture and Fisheries is hereunto affixed this twelfth day of May, nineteen hundred and thirty-eight.

DONALD FERGUSSON,
Secretary.

(a) 40 & 41 Vict. c. 68, 7 Edw. 7. c. 4 and 17 & 18 Geo. 5. c. 32.
(b) S.R. & O. 1933 (No. 558), p. 735. (c) S.R. & O. 1934 (No. 684) I, p. 458. (d) S.R. & O. 1935 (No. 1225), p. 399. (e) S.R. & O. 1936 (No. 318) I, p. 871. (f) S.R. & O. 1936 (No. 1288) I, p. 874. (g) S.R. & O. 1937 (No. 197), p. 659.

Fort St. George, September 3, 1938
(G.O. Ms. No. 2174, Development).

No. 715.—

The following notification of the Imperial Council of Agricultural Research Department is republished:—

IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH
DEPARTMENT.

Rock House, Simla S.W., the 17th August 1938.

No. F. 26/38/L.C.—Under the provisions of sections 4 (4) (iii) and 4 (8) of the Indian Lac Cess Act, 1930 (XXIV of 1930), as amended by the Indian Lac Cess (Amendment) Act, 1936 (IX of 1936), the Central Government are pleased to appoint Mr. D. G. Sevastopulo of Messrs. Ralli Brothers, Limited, nominated by the Bengal Chamber of Commerce to represent the Shellac Export Trade, as a member of the Governing Body of the Indian Lac Cess Committee, *vice* Mr. A. Metaxa resigned.

Fort St. George, September 3, 1938
(G.O. Ms. No. 2177, Development).

No. 716.—

The following notification of the Imperial Council of Agricultural Research Department is republished:—

IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH
DEPARTMENT.

Rock House, Simla S.W., the 12th August 1938.

No. F. 26/2/38/L.C.—Under the provisions of sub-sections (2) and (3) of section 4 of the Indian Lac Cess Act, 1930 (XXIV of 1930), as amended by the Indian Lac Cess Amendment Act, 1936 (IX of 1936), the Central Government are pleased to appoint Mr. A. P. Middleton, I.C.S., Commissioner, Chota-Nagpur Division, Ranchi, to be the President of the Indian Lac Cess Committee and to be the Chairman of its Governing Body and Advisory Board with effect from the 20th August 1938, *vice* Sir Bryce Burt, C.I.E., M.B.E., I.A.S., resigned.

Fort St. George, September 3, 1938
(G.O. Ms. No. 2178, Development).

No. 717.—

The following notification of the Imperial Council of Agricultural Research Department is republished:—

IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH
DEPARTMENT.

Rock House, Simla S.W., the 17th August 1938.

No. F. 26/38/L.C.—In exercise of the powers conferred by section 4 (4) (vi) of the Indian Lac Cess Act, 1930 (XXIV of 1930), as amended by the Indian Lac Cess Amendment Act, 1936 (IX of 1936), the Central Government are pleased to appoint Mr. Ramkishore Lal Jayaswal (c/o Messrs. Gulab Singh Samar Singh, Balarampur district, Manbhurn, Bihar) as a member of the Governing Body of the Indian Lac Cess Committee to represent the indigenous shellac manufacturers with effect from the 23rd August 1938, *vice* Mr. A. M. Arathoon of Jhalda.

Fort St. George, September 3, 1938
(G.O. Ms. No. 2179, Development).

No. 718.—

The following notification of the Imperial Council of Agricultural Research Department is republished:—

IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH
DEPARTMENT.

Rock House, Simla S.W., the 17th August 1938.

No. F. 26/38/L.C.—In exercise of the powers conferred by section 4 (4) (v) of the Indian Lac Cess Act, 1930 (XXIV of 1930), as amended by the Indian Lac Cess Amendment Act, 1936 (IX of 1936), the Central Government are pleased to appoint Mr. Shivasaranlal Jayaswal, village Bundu, district Ranchi, as a member of the Governing Body of the Indian Lac Cess Committee to represent the lac cultivators in Bihar with effect from the 23rd August 1938, *vice* Khawaja Hakim Jan.

Fort St. George, August 24, 1938
(G.O. Ms. No. 2063, Development).

No. 689.—

The following draft of certain amendments to the Madras Payment of Wages Rules, 1937, published

with Development Department Notification No. 133, dated the 20th February 1937, at pages 356-359 of Part I of the *Fort St. George Gazette*, dated the 23rd February 1937, as subsequently amended, which it is proposed to make in exercise of the powers conferred by sub-sections (3) and (4) of section 26 of the Payment of Wages Act, 1936 (IV of 1936), is published as required by sub-section (5) of the said section for the information of all persons likely to be affected thereby, and notice is hereby given, that the said draft will be taken into consideration on or after the 1st December 1938.

Any objection or suggestion which may be received from any person with respect to the draft before the said date will be considered by the Government of Madras. Objections and suggestions should be addressed to the Government of Madras through the Chief Inspector of Factories.

DRAFT AMENDMENTS.

I

After rule 6 of the said rules, the following heading and rule shall be inserted, namely:—

“Section 26 (3) (b).

6-A. In every factory the paymaster shall display at or near the main entrance of the factory notices in Form VI specifying in detail the rates of wages payable to different classes of workers employed therein. The notices shall be in English and in the language of the majority of the persons employed in the factory.”

II

After rule 18 of the said rules, the following rule shall be inserted, namely:—

“18-A. Copies of notices referred to in rule 6-A shall be sent in duplicate by the paymaster to the Chief Inspector of Factories every year not later than the 15th January:

Provided that any alteration in the notices that may be made in the course of the year shall be communicated to the Chief Inspector not later than a fortnight from the date on which the alteration was made.”

III

In rule 23 of the said rules—

(1) after the figure “6” the figure and letter “6-A” shall be inserted; and

(2) for the word and figures “and 18” the figures, word and letter “18 and 18-A” shall be substituted.

IV

After Form V appended to the said rules, the following Form shall be added, namely:—

“FORM VI.

(See rule 6-A.)

Serial number.	Class of worker.	Rate of wages.”
(1)	(2)	(3)

Fort St. George, September 5, 1938
(G.O. Ms. No. 2187, Development).

No. 719.—

In exercise of the powers conferred by paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following special rules:—

RULES.

1. The cadre of category 3 of Class I of the Madras Agricultural Subordinate Service (Fieldman) shall be increased temporarily by one post for a period of one year from the date of employment for conducting experiments on the duties of water at the Central Farm, Coimbatore.

2. The general and special rules applicable to the holders of permanent posts borne on the said cadre shall apply to the holder of the said temporary post.

Explanation.—In these rules, the expression “holder of the said temporary post” means the person counted against the temporary post.

PRESS COMMUNIQUÉ.

Fort St. George, September 6, 1938.

No. 177.—An accident occurred at about 10-45 a.m. on 9th August 1938 in the Bezvada Quarry due to the slipping of the sides due to local rains. About 1,000 units of materials got detached from the rock and came down mostly in big blocks. One of the coolies working at the site got his right leg broken below the knee and was promptly removed to the Government Hospital for treatment where he is said to be progressing. Another man got jammed between the rocks and died instantaneously. The Police removed the body and after an inquest handed it over to the relatives of the deceased. Two other men are missing and are supposed to have been buried under the debris. Further investigation is proceeding. The question of the compensation payable to the injured and the relatives of the deceased is being taken up with the contractor executing the quarrying operations.

No. 178.—

The following corrigendum of the Government of India is republished:—

DEPARTMENT OF COMMUNICATIONS.

POSTS AND TELEGRAPHS.

Simla, the 27th August 1938.

Corrigendum.—In the Notification of the Department of Communications, Posts and Telegraphs, No. F. M.-170/38, dated the 26th July 1938, published on pages 1337-1338 of Part I of the Gazette of India, dated the 30th July 1938, for "(xiii)" in sub-paragraph 2 (c) read "(xii)."

K. RAMUNNI MENON,
Secretary to Government.

(Electricity.)

NOTIFICATIONS.

Fort St. George, September 2, 1938.
(G.O. Ms. No. 1899, Electricity).

No. 188.—

In exercise of the powers conferred by paragraph (b) of sub-section (1) and paragraph (b) of sub-section (2) of section 241 of the Government of India Act, 1935, His Excellency the Governor is hereby pleased to make the following special rules:—

RULES.

1. The cadre of category 3 of Class I of the Madras Electrical Service shall be increased temporarily by one post of Assistant Engineer (Electrical) for a period of three months commencing on the date of appointment of the officer for the performance of work connected with the clearing off of arrears in the disposal of files in the office of the Chief Engineer for Electricity.

2. The general and special rules applicable to holders of permanent posts borne on the said cadre shall apply to the holder of the said temporary post.

Explanation.—In this rule, the expression "the holder of the said temporary post" shall mean "the person counted against the temporary post."

Fort St. George, September 2, 1938

No. 189.—

The following notice of an advertisement which appeared in the issues of *The Hindu*, dated 15th, 16th and 17th August 1938, is published:—

THE SALEM-ERODE ELECTRIC LICENCE, 1931.

AMENDMENT OF THE LICENCE UNDER SECTION 4 (3) (b) OF THE INDIAN ELECTRICITY ACT (AS AMENDED).

It is hereby notified for the information of the public that the Salem-Erode Electricity Distribution Company, Limited, Managing Agents, Messrs. Octavius Steel and Company, Limited, has applied to the Government of Madras for an amendment to clause 5 of the Salem-Erode Electric Licence, 1931, by the substitution of the following re-cast of the clause:—

"5. Area of supply.—The area within which the supply of energy is authorized by this licence is that contained within a radius of six miles of the

Salem Town Railway Station together with an area formed by drawing two tangential lines from this circular area to the village of Nedungulam in the north, and to the village of Molasi in the south, both villages being on the left bank of the Cauvery river; the left bank of the Cauvery river forming the western boundary of that part of the area in the Salem district. In the Coimbatore district the supply of energy is authorized by this licence within the municipal limits of the town of Erode, the area being delineated in red and black upon the supplementary deposited map No. A48A. Nothing in this licence shall be construed to prevent the South Indian Railway Company, Limited, taking from the Government a supply of electrical energy for their exclusive use within that part of the area delineated in green on the deposited map which is within the company's area of supply."

Every local authority, company, or person desirous of making any representation to the Local Government with reference to the above amendment may do so by letter addressed to the Secretary to the Government of Madras, Public Works and Labour Department, Fort St. George, Madras, within three months of the date of this notice, namely, 9th August 1938.

Fort St. George, September 7, 1938.

No. 190.—

The following notice of an application made to Government for the grant of the Amalapuram Electric Licence which appeared in the issues of "Janavani," dated the 29th, 30th and 31st is published:—

The Amalapuram Electric Supply Corporation, having applied to the Government of Madras for a licence as follows for generating, and supplying electrical energy for Amalapuram and the surrounding area, notice is hereby given that every local authority, company or person desirous of making any representations with reference to the said application to the Government, may do so by letter addressed to the Secretary to the Government of Madras Public Works Department, Madras, within three months from the date of issue of the newspaper containing the first advertisement (29th August 1938).

Copies of the draft licence and of the deposited map may be inspected free at the registered office of the company at 2/17, C.P. Koil Street, Mylapore, Madras, and at the Panchayat Board office, Amalapuram. Copies of draft licence are available for sale at As. 8 per copy at the registered office of the company.

THE DRAFT AMALAPURAM ELECTRIC LICENCE, 1938.

LICENCE FOR THE SUPPLY OF ELECTRIC ENERGY GRANTED BY THE GOVERNMENT OF MADRAS UNDER THE INDIAN ELECTRICITY ACT, 1910.

Licence is hereby granted to the Amalapuram Electric Supply Corporation to supply electrical energy in the area with the powers and upon the terms and conditions all specified below.

1. *Short title.*—This licence may be cited as "The Amalapuram Electric Licence, 1938."

2. *Interpretation.*—This licence is to be read and construed as subject in all respects to the provisions of the Indian Electricity Act, 1910, with the statutory modifications thereof and to the rules thereunder; and the several words, terms and expressions, to which meanings are assigned by that Act or any statutory modifications thereof or by the rules thereunder or the General Clauses Act, 1897, shall have in this licence and the annexures thereto the same respective meanings, provided that in the licence—

(1) The expression "The Act" shall mean the Indian Electricity Act, 1910, with statutory modifications thereof.

(2) The expression "The Licensees" shall mean and include the Amalapuram Electric Supply Corporation, and their permitted assigns.

(3) The expressions "First Annexure," "Second Annexure," "Third Annexure" and "Fourth Annexure" shall mean the first, second, third and fourth annexures to this licence respectively.

(4) The expression "deposited map" shall mean the plan showing the area of supply or the streets or routes along which electric lines have compulsorily to be laid, all hereinafter specified, which has been deposited with the Government of Madras

in pursuance of the rules under the Act, and which plan is signed for the purpose of identification by the Secretary to the Government of Madras in the Public Works Department and by the applicants under the name and style of the Amalapuram Electric Supply Corporation.

(5) The expression "unit," shall mean the quantity of energy contained in a current of one thousand amperes flowing under an electro-motive force of one volt during one hour.

(6) The expression "load factor" shall mean the ratio or percentage of average quantity per hour to the maximum quantity per hour of energy supplied in any month.

3. *Commencement of licence.*—The date of the notification by the Government of Madras in the *Fort St. George Gazette* that this licence has been granted is in this licence referred to as "the commencement of the licence."

4. *Security.*—(a) The period within which under clause I (a) of the schedule to the Act the licensees shall show that they have available capital of Rs. 20,000 in actual cash and are in a position fully and efficiently to discharge the duties and obligations imposed upon them by this licence throughout the area of supply shall unless otherwise ordered by the Government of Madras under the clause be six months from the commencement of the licence.

(b) The period within which under clause I (b) of the schedule to the Act the licensees shall deposit security and the sum so to be deposited shall unless otherwise ordered by the Government of Madras be six months and rupees three thousand respectively.

5. *Area of supply.*—The area within which the supply of electric energy is authorized by this licence is the whole of the area covered by a circle of 5 miles radius with centre as the road junction of Kuchimanchivari Agraharam Street No. 1 and Gannavaram Road in Amalapuram town more particularly delineated in red on the deposited map.

6. *Purpose of supply.*—Subject to the provisions of this licence and the Act and rules thereunder the licensees shall be entitled during the continuance of this licence to supply electrical energy within the area of supply for all purposes,

Provided that the licensees shall not without adequate notice being served on them be under any obligation under section 22 of the Act to supply more energy than this consistent with their obligation to maintain a constant supply to consumers due regard being had to the licensees' load factor and the supply of energy from Government when changed over:

Provided that no supply of energy shall be connected until the licensees' works have been inspected by the Electrical Inspector to Government and passed by him in writing and until the Government of Madras have approved (i) the form of requisition to be made by the owners or occupiers of the premises for supply of energy, (ii) the form of written contract or agreement with the licensees agreeing to take a supply and (iii) all miscellaneous charges incidental to such supply, and also until the Government have been duly notified of the amount of all retail rates actually to be charged to consumers for energy supplied for various purposes:

Provided further that every change in or addition to the rate shall be communicated to Government at least one month prior to its coming into force.

7. *Systems of supply.*—The system to be adopted for the supply and transmission of electric energy under this licence are the following:—

(1) (a) A medium pressure alternating current 3-phase 4-wire supply at a pressure at the consumer's terminals of 400 volts (approximately) between phases and 230 volts between phase and neutral which shall be earthed at one point only on each separate distributing system and at a frequency of 50 complete periods per second.

(b) A high pressure alternating current three phase supply at a pressure of 11,000 volts between phases and a frequency of 50 complete periods per second.

(c) The neutral points of the high pressure systems may, with the approval of the Government of Madras and concurrence of the Telegraph authority and the railway authorities, be connected to earth.

Provided always that it shall be lawful for the Government from time to time to issue with due regard to the expense involved and to the effect upon the commercial prospects of the undertaking, regulations dealing with above systems of supply or to authorize subject to such limitations and conditions

as shall be prescribed in writing by the Government other systems of supply to be adopted for the purpose of this licence.

(2) The transmission lines, feeders, distributing mains and service lines may be overhead or underground in whole or in part, and shall be erected, constructed and maintained by the licensees in strict conformity with the Act and the rules thereunder and the following provisions:—

(a) The licensees shall not use overhead mains at any higher pressure than medium pressure without the sanction in writing of the Electric Inspector to Government in each case and subject to any conditions or limitations which the Electric Inspector to Government may prescribe.

(b) In streets which may at any time hereafter be named in writing by the Government of Madras all electric lines shall be laid underground.

(c) Where the transmission or electric supply line crosses or runs along the routes of taboot, temple car or similar religious processions, the wires shall be laid underground or at such height as will allow of the free and safe passage of those processions.

(d) Posts for overhead lines shall not be erected without the previous permission of the Electric Inspector in such portions of streets and thoroughfares where the clear width for vehicular traffic after the post is erected is less than 11 feet.

(e) In narrow lanes through which wheeled traffic is not permitted the posts shall be placed on the extreme edge of the lane and a special construction to be approved by the Electric Inspector adopted to keep the wires inaccessible from every building.

(f) In any street or its direct continuation in which overhead electric lines are run, such lines shall except with the previous permission of the Electric Inspector be run throughout on one side only.

(g) Where overhead mains carrying alternating current are used, due precautions shall be taken by the licensees to avoid any possible interference with the adjacent telegraph or telephone circuits due to inductive effects; the overhead wires shall be suitably transposed where necessary.

(h) For the purpose of rule 61 of the Indian Electricity Rules, 1922, the maximum wind pressure shall be taken as 20 lb. per square foot.

8. *Compulsory works.*—(a) The licensees shall lay down suitable and sufficient transmission lines, feeders and distributing mains and erect the generating station with all machinery and apparatus necessary for giving a continuous supply of energy and shall do all other works necessary for the commencement of the supply and to the satisfaction of the Government of Madras throughout such streets or parts of streets as are mentioned in the first annexure and as indicated in red on the deposited map. In the case of difference between the description in the first annexure and as indicated on the deposited map the latter shall prevail. The licensees shall commence to execute the works aforesaid within twelve months from the commencement of the licence and shall complete the same within three years thereof. The works aforesaid shall be in general accordance with the scheme mentioned in the third annexure and with such modifications as may be approved hereafter in writing by the Government of Madras.

(b) Further within twelve months of the receipt of the application and subject to the first proviso of clause VI (1) of the schedule to the Act, the licensees shall lay down suitable and sufficient additional transmission lines, feeders and distributing mains, as may be required, to effect a supply every applicant, village or community within the area having a demand of not less than 8,000 units per annum per mile of additional low-tension line and 12,000 units per mile of 11,000 volts line.

(c) In addition to the streets mentioned in the first annexure the licensees shall lay down further distributing mains to an aggregate length of one mile as may be directed by the Government of Madras within six months of the commencement of the supply.

(d) If the licensees fail to comply with the above provisions or should in the opinion of the Government of Madras, the progress made during any portion of the said period of two years be unsatisfactory, the licence may be revoked, and the security furnished as per clause 4 (b) above, forfeited.

(e) The licensees shall submit reports to the Electrical Inspector to Government (Chief Engineer for Electricity) every six months from the commencement of this licence until the completion of the compulsory works specifying all steps taken and the progress made in carrying into effect this licence.

9. *Generating stations.*—(a) There shall be one or two generating stations situated within the area of supply.

(b) *Transmission lines from generating stations.*—For the purpose of conveying and transmitting energy, the licensees may, after an order in writing has been made by the Government of Madras conferring upon them such of the powers referred to in section 51 of the Act as may be necessary, and upon obtaining the general approval required by section 18 of the Act, place aerial transmission lines from the generating station to one or more receiving stations. The alignment of the aerial transmission lines from the generating station and up to the one or more receiving stations shall be subject to the previous approval of the Electrical Inspector to Government (Chief Engineer for Electricity).

(c) The licensees shall employ a resident Electrical Engineer in technical charge of the undertaking who in the opinion of the Government is qualified for the purpose.

10. *Breaking up of streets and public thoroughfares and crossing of waterways.*—(a) The licensees are hereby specially authorized to open and break up the soil and pavement of any public thoroughfare at such points and places and to such extent only as shall have been previously approved in writing by the Government after the licensees have notified the persons who are entitled to work the said public thoroughfares and after all representations or objections received in accordance with any such notices have been considered by the Government.

(b) The length of the trenches to be opened on any street at any one time and the period for which they may remain open shall be determined from time to time by the Government of Madras or the local authority by which such streets are repairable. When any street is crossed not more than half the width of such street shall without the specific authority in writing of the Government of Madras or the local authority as aforesaid be closed for traffic.

(c) The licensees are further authorized to cross all rivers, streams and irrigation channels within or contiguous to the area of supply in accordance with such conditions as the Government may impose.

11. *Limits of prices to be charged in respect of supply of energy.*—(a) The prices to be charged by the licensees for energy supplied by them shall not exceed those stated in that behalf in the second annexure or in the case of a method of charge approved by the Government of Madras in accordance with clause X of the schedule to the Act, such maximum as the Government of Madras may fix on approving the method; nevertheless the licensees may enter into special contracts, subject to sections 22 and 23 of the Act, for the supply of energy.

(b) Should a supply of electrical energy in bulk become available at any future date from a Government power system the licensees shall obtain all their requirements from such a system or source of supply subject to the conditions of clause 9 (a) within twelve months from the date from which notice is given by Government that such supply is available.

(c) In the case where the energy is obtained from a Government power system, the licensees shall conform in re-sale rates and in conditions of working to such regulations as may be issued by the Government. If a bulk supply is obtained from a source, other than a Government power system, the licensees shall reduce the rates charged to consumers and also the maximum specified in the second annexure of this licence to such extent as may be directed by the Government.

12. *Continuity of service.*—It shall be the duty of the licensees to give to the nearest magistrate immediate and full information of any circumstances in which interruption of the supply may be apprehended as a result of civil commotion or disturbance of the public peace or any strike or lock-out of the nature specified in section 15 of the Trade Disputes Act, 1929.

13. *Purchasing of undertaking.*—(a) The option of purchase given by section 7, sub-section (1), of the Act shall first be exercisable on the expiration of twenty years from the commencement of this licence and on the expiration of every subsequent period of seven years during the continuance of this licence. The percentage of the value to be

determined in accordance with and for the purpose of sub-section (1) of section 7 of the Act of all lands, buildings, works, materials and plants of the licensees therein mentioned to be added under the second proviso of the sub-section to such value on account of compulsory purchase shall be 20 per centum.

(b) In accordance with section 3, sub-section (2), clause (d) (ii) of the Act, it is hereby expressly declared that the generating station within the area of supply belonging to the licensees and to be used in connexion with the undertaking or if there is no generating station within the area of supply but energy is brought from a hydro-electric or other source, then in that case the one or more receiving and distributing stations to be used in connexion with the undertaking as also the unpaid balances if any of apparatus or wiring provided by the licensees on hire purchase shall form part of the undertaking for the purpose of purchase under section 5 or section 7 of the Act.

(c) During the period of notice prescribed in section 7 (4) of the Act, all extensions and outlays of money debitable to the capital account of the licensees shall be subject to the previous approval of the Government.

14. *Variations from the schedule to the Act.*—In pursuance of section 3, sub-section (2), clause (f) of the Act, it is hereby expressly declared that clause IX of the schedule to the Act shall be excepted from incorporation in this licence. Clause XI of the schedule to the Act shall also be excepted from incorporation in this licence to the extent that the prices charged by the licensees for energy supplied shall be fixed by Government from time to time in accordance with clause 11 (c) of this licence and without reference to an Advisory Board.

15. *Assignment of licence.*—At any time after the commencement of the licence, the licensees may assign this licence or transfer the whole of their undertakings in respect of which this licence is granted (including all lands, buildings, work, materials and plant of the licensees) to a company formed or to be formed and registered in British India, having authority to take over the licence and the said undertaking as the case may be and to exercise the powers, and perform the obligations given to or imposed upon the licensees under this licence and the Act and the rules made under the Act and on such assignment or transfer the rights, powers and authorities, obligations and liabilities of the licensees shall be assigned and transferred to and shall be exercised by and shall attach to such company formed or to be formed as aforesaid:

Provided—

(1) that a complete statement of the terms of the proposed assignment is placed before the Government of Madras and that no charge on account of premium or in the case of an undertaking not earning profits of goodwill shall be included in the terms of the assignment; and

(2) that no assignment shall be made without the previous consent in writing of the Government of Madras.

16. *Revocation.*—If the licensees fail to comply with the provisions of any of the clauses hereof, the licence may be revoked.

FIRST ANNEXURE.

COMPULSORY WORKS.

Lists of streets or parts of streets in which the licensees are to lay down suitable distributing mains for the purpose of supply of electrical energy.

Compulsory streets to be electrified in Amalapuram—

- (1) Main Road, Nos. I and II.
- (2) Canal Roads, both sides as marked.
- (3) Gokarakondavari street.
- (4) Mouberryypeta street No. I.
- (5) Mouberryypeta street No. III.
- (6) Mouberryypeta street No. IV.
- (7) Mouberryypeta street No. V.
- (8) Ganduvari street.
- (9) Machirajuvvari street No. I.
- (10) Ajjarapuvvari street.
- (11) Kuchimanchivari Agraharam street No. I.
- (12) Lakshminarayana Agraharam.
- (13) Setti Baljipeta Road No. I (portion marked).
- (14) Bhupayya Agraharam Road No. I.
- (15) Bhupayya Agraharam Road No. II (portion marked).
- (16) Gannavaram Road (portion marked).

SECOND ANNEXURE.
MAXIMUM CHARGES.

The licensees shall be entitled to charge the consumers the following rates:—

Domestic purposes—

(a) Lights, fans and small apparatus of less than one horse-power—annas 6 per unit.

This is subject to a minimum monthly charge of Rs. 2 per service.

(b) Heating and cooking—When metered separately same as industrial power.

Industrial purposes—

Power used during the hours of 11 p.m. to 5 p.m. subject to a monthly minimum charge of Rs. 5 per K.W. of maximum demand (maintained for more than 15 minutes).

For the first 2,000 units a month—2 annas per unit.

For the next 3,000 units a month—1.50 annas per unit.

For the rest at 1.25 annas per unit.

For power used during the restricted hours of 5 p.m. to 11 p.m. a surcharge of 25 per cent may be made.

For mixed load of small power lights and fans—Three annas per unit, provided that consumption of 500 units per month is guaranteed.

Agricultural uses—

For not less than 3 horse-power connected—One anna per unit.

No monthly minimum but annual guaranteed consumption of power shall not be less than that equivalent of Rs. 15 per horse-power connected, otherwise the balance will have to be paid.

Bazaar lamps—

Energy required by bazaar shops, Rs. 2-40 per month per 40 watt lamp, burning for not more than 5 hours per day. Lamps burning for more hours or of larger wattage, proportionate rates.

Energy of public bodies—

Annas 3 per unit between 6 p.m. and 11 p.m. and Re. 0-2-6 per unit for the other hours.

THIRD ANNEXURE.

List of streets where lines are to be laid underground—Nil.

FOURTH ANNEXURE.

Survey report submitted to Government.

for The Amalapuram Electric Supply Corporation,
K. APPA ROW,
Director-in-charge.

ACQUISITION OF LAND.

Fort St. George, September 3, 1938.

Whereas it appears to the Government of Madras, that the land specified below is needed for a public purpose, to wit, for the construction of an electrical sub-station with quarters for the staff, notice to that effect is hereby given to all whom it may concern in accordance with the provisions of section 4 (1) of the Land Acquisition Act I of 1894, as amended by the Land Acquisition Amendment Act XXXVIII of 1923; and, the Government of Madras hereby authorize the Sub-Collector, Devakottai, his staff and workmen to exercise the powers conferred by section 4 (2) of the Act. Under sub-section (4) of section 17 of the Act, the Government of Madras direct that in view of the urgency of the case, the provisions of section 5-A of the Act, shall not apply to the acquisition of the arable land specified below:—

Ramnad district, Sivaganga taluk, Kanjirangal village.

Inam, dry, S. No. 112-2, both warams, M. Karpurasundara Pandiyan Serval (Cowledar) and The Raja of Sivaganga represented by the Diwan, Sivaganga estate, bounded on the north by S. No. 112-1; east by S. No. 111; south and west by S. No. 112-1

Approximate extent.
ACS.

1-35

K. RAMUNNI MENON,
Secretary to Government.

(Irrigation.)

ERRATA.

Fort St. George, September 2, 1938.

In the notification under section 4 (1) published on page 792 of Part I of the Fort St. George Gazette, dated 31st May 1938, in respect of the land required for a field bothie in Thulajendrapuram village of Mannargudi taluk—

In the entries against R.S. No. 880-4 B part, for the name of owner 'Uthandi Munathiriyar,' read 'Kannuswamy Munathiriyar, Sellapa Munathiriyar and Kannuswamy Munathiriyar, guardian to two nameless minors.'

In the entries against R.S. No. 886-7 part, for purchaser 'Uthandi Munathiriyar,' read 'Kannuswamy Munathiriyar, Sellapa Munathiriyar and Kannuswamy Munathiriyar, guardian to two nameless minors.'

In the extent notified for R.S. No. 886-9 part, for '0.05 acre,' read '0.04 acre.'

In the entries against R.S. No. 893-1 part—

In the eastern boundary, for 'No. 893-4 & 5 part,' read 'No. 893-4 part & 5 part.'

For 'A. Ganapathi Sastrigal and sixty others,' read 'A. Ganapathi Sastrigal and fifty-nine others noted below—

Names of owners of S. No. 893-1 part & 11 part.

1 A. Ganapathi Sastrigal.	31 I. Subramania Ayyar.
2 S. Ramasami Sastrigal.	32 M. Narayana Sastrigal.
3 S. Srinivasa Sastrigal.	33 M. Ramamoorti Sastrigal.
4 S. Venkatarama Ayyar.	34 S. Nataraja Sastrigal.
5 S. Ramasami Dikshitar.	35 S. Subramania Ayyar.
6 S. Krishnamoorti Ayyar.	36 S. Ramaswami Sastrigal.
7 S. Tyagaraja Sastrigal.	37 S. Gangadara Sastrigal.
8 Panchapagesa Sastrigal.	38 S. Venkatarama Dikshitar.
9 U. Vaithinatha Sastrigal.	39 S. Subramania Ayyar.
10 S. Muthukrishna Sastrigal.	40 S. Visvanatha Ayyar.
11 S. Ramabadra Sastrigal.	41 S. Sankari Ammal.
12 S. Venkatarama Sastrigal.	42 S. Balakrishna Sastrigal.
13 S. Sami Vathiar.	43 S. Ramanatha Ayyar.
14 S. Ramamoorti Sastrigal.	44 Vembu alias Lakshmi Ammal.
15 S. Ramasami Vathiar.	45 S. Ramachandra Sastrigal.
16 S. Venkatarama Vathiar.	46 S. Natesa Sastrigal.
17 S. S. Rama Sastrigal.	47 S. Balakrishna Sastrigal.
18 S. Dandapani Sastrigal.	48 S. Ramachandra Sastrigal.
19 Minor Raghavan, guardian Alamelu Ammal.	49 S. Rajagopala Ayyar.
20 S. Sundara Sastrigal.	50 S. Narayana Dikshitar.
21 R. Vaithinatha Sastrigal.	51 Maha Ganapathiswami.
22 S. Jagadeesa Sastrigal.	52 S. Krishna Sastrigal.
23 S. Nagaratna Ayyar.	53 S. Ramanatha Ayyar.
24 S. Ramasami Ayyar.	54 S. Nagalakshmi Ammal.
25 S. Krishna Ayyar.	55 A. Subramania Dikshitar.
26 S. S. Alamelu Ammal.	56 A. Ayyasami Ayyar.
27 S. S. Kuppammal.	57 S. Visvanatha Ayyar.
28 Ananda Kesava Sastrigal.	58 S. Adaikan Ambalaganan.
29 S. Muthusami Ayyar.	59 S. Narayanan Pariyal.
30 Govindan Theunkondan.	60 S. Ayyasami Tevan.

In the entries against R.S. No. 893-5 part—
For the words 'belonging to same as in R.S. No. 886-7 part,' read 'S. Thyagaraja Sastrigal, S. Nataraja Sastrigal, Kannuswamy Munathiriyar, Sellapa Munathiriyar, and Kannuswamy Munathiriyar, guardian to two nameless minors.'

For the eastern boundary 'No. 893-6,' read 'No. 893-6 part.'

In the entries against R.S. No. 893-11 part—
For 'A. Ganapathi Sastrigal and sixty others,' read 'A. Ganapathi Sastrigal and fifty-nine others noted above.'

In the eastern boundary, for 'No. 894-1 C,' read 'Nos. 894-1 C and 893-11 part.'

Fort St. George, September 3, 1938.

In the notification under section 4 (1) of the Land Acquisition Act, published at page 647 of Part I of the Fort St. George Gazette, dated 3rd May 1938, in respect of the lands required for a field bothie extension of the Cauvery-Mettur Project, in chatram Ramanathapuram village, Tanjore taluk, Tanjore district—

Against S. No. 539-4 A part, delete S. No. 276 in the eastern boundary.

Against S. No. 277-16 part, add after (kudivaramdar) kudivaram mortgagee, Secretary, Manojipatti Co-operative Society.

In the note at the foot of the notification, for 'Droundambal chatram,' read 'Droupadambal chatram.'

Fort St. George, September 5, 1938.

In the notification under section 4 (1) of the Land Acquisition Act, as amended by the Land Acquisition Amendment Act XXXVIII of 1923, published at pages 44 and 45 of Part I of the Fort St. George Gazette, dated 4th January 1938, for the acquisition of lands for the excavation of field channels under Toludur Project in the village of Venkarambur, Vridhachalam taluk, South Arcot district—

For 'Government, dry, R.S. No. 14-16 part,' occurring after Government, dry, R.S. No. 147 part, read 'Government, dry, R.S. No. 141-16 part.'

Against Government, dry, R.S. No. 138-17 part, in the northern boundary, for 'No. 138-17 & 14 part,' read 'No. 138-17 part & 14 part.'

Against Government, dry, R.S. No. 164-3 part in the names of owners, add the names of 'Thangamuthu Padayachi, Pichamuthu Padayachi, minors Rajaratnam, Boora-swami, Chinnapillai and Thambuswami, guardian father Thangamuthu Padayachi and Pachamuthu Padayachi.'

Against Government, dry, R.S. No. 153 part, in the names of owners, for 'minor Thangavelu, guardian Sellammal,' read 'minors Thangavelu and Vadivel, guardian mother Sellammal,' for 'Chinnathu Padayachi,' read 'Chinnathambi Padayachi and minors Manik-kam, Vadivel and Chinnaswami, guardian father Chinnathambi Padayachi'; in the eastern boundary, for 'No. 152,' read 'No. 152 part.'

Against Government, dry, R.S. No. 151-4 part, in the names of owners, add the names of 'Narayana Padayachi, Valliammal, Krishna-swami Chetti and minors Murugan and Rajavel, guardian father Kannuswami Padayachi'; in the western boundary, for 'No. 152,' read 'No. 152 part.'

Against Government, dry, R.S. No. 151-5 part, in the names of owners, add 'Rangaswami Padayachi, Thangamuthu Padayachi, minor Periyaswami Padayachi, guardian father Rangaswami Padayachi and minor Thangarasu, guardian father Thangamuthu Padayachi'; in the eastern boundary, for 'No. 146,' read 'No. 146 part.'

Against Government, dry, R.S. No. 147 part, in the names of owners, add 'minor Thigarajan, guardian father Ramalinga Padaya-chi'; in the western boundary, for 'No. 146,' read 'No. 146 part.'

Fort St. George, September 8, 1938.

In the draft declaration under section 6 of the Land Acquisition Act published at page 1058 of Part I of the Fort St. George Gazette, dated 19th July 1938, in respect of the lands to be acquired for a field bothie under the Thumalur new channel in Davulur village, Tenali taluk, Guntur district—

Against S. No. 304-6 B, for 'enjoyer Agutu Mahalakshamma, wife of Narapareddi,' read 'enjoyers Agutu Narapareddi and Annavarapu Bhagayya.'

Against S. No. 303-2, add 'Annavarapu Bhagayya' to the enjoyers.

Against S. No. 344-1 B, northern boundary, for 'S. No. 341-1 A,' read 'S. No. 344-1 A.'

Against S. No. 344-3 A, for 'pattadar and enjoyer Gottimukkala Subbayya,' read 'pattadar and enjoyer Gottimukkala Rathayya.'

Against S. No. 344-3 B, for 'pattadar and enjoyer Gottimukkala Subbayya,' read 'pattadar and enjoyer Gottimukkala Subbayya, enjoyer Gottimukkala Rathayya.'

Against S. No. 345-1 A, for 'Gottimukkala Subbayya,' read 'Gottimukkala Subbayya.'

Against S. No. 345-2 A, for 'pattadars and enjoyers Gottimukkala Vijayamohana Rao and Durgaprasada Rao, being minor by guardian mother Punyavathamma,' read 'pattadars and enjoyers Gottimukkala Vijaya Ramamohana Rao and Durgaprasada Rao, being minor by guardian brother Vijaya Ramamohana Rao.'

Against S. No. 345-3 A, for 'Gottimukkala,' read 'Gottimukkula' wherever they occur.

Against S. No. 345-4 A, delete 'Potharlanka Punnamma, wife of Chinalakshamma, Neela Lakshamma and Pamula Anandam' and add 'Pamula George.'

In the notification under section 4 (1) of Act I of 1894, published at page 1015 of Part I of the Fort St. George Gazette, dated 12th July 1938, relating to the acquisition of lands for the excavation of bothie under Davulur New channel, in Davulur village, Tenali taluk, Guntur district—

Against S. Nos. 303-1 B part and 303-3 part, for 'pattadar and enjoyer Gottimukkala Venkayya,' read 'pattadar and enjoyer Gottimukkula Venkayya, manager of joint family.'

Against S. No. 303-2 part, for 'Gottimukkala Achanna,' read 'Gottimukkula Achanna.'

In the notification under section 4 (1) of the Land Acquisition Act I of 1894, as amended by the Land Acquisition Amendment Act XXXVIII of 1923, published at pages 1108 to 1110 of Part I of the Fort St. George Gazette, dated 26th July 1938, in respect of the lands proposed to be acquired for the improvements to the Palavar drain in Tholar village, Vriddhachalam taluk, South Arcot district—

Against Government, dry, R.S. No. 429-2 part, in the western boundary, for '427,' read '437.'

For Government, wet, R.S. No. 443-1 part, occurring after Government, dry, R.S. No. 443-2 part, read 'Government, dry, R.S. No. 443-1 part.'

Against Government, dry, R.S. No. 446-18 part in the northern boundary, for '466-6 part,' read '446-6 part.'

Against Government, dry, R.S. No. 446-5 in the names of owners, for 'guardian brother Ramakrishnam Pillai,' read 'guardian brother Ramakrishnam Pillai.'

Against Government, dry, R.S. 446-1 in the eastern boundary, for '446-7 part,' read '446-7 parts.'

Against Government, dry, R.S. No. 446-7 part in the western boundary, for '441-1,' read '446-1.'

Against Government, dry, R.S. No. 448-13 A part in the names of owners, for 'minor Anaimuthu, guardian father Natha Konan and minor Anaimuthu, guardian father Natha Konan,' read 'minor Anaimuthu, guardian father Kesava Konan and minor Anaimuthu, guardian father Natha Konan.'

Against Government, dry, R.S. No. 348-4 part in the names of owners, for 'Kathiresamburoyar,' read 'Kadirvel Samburoyar,' and add the name of 'Natesa Malavarayar.'

Against Government, dry, R.S. No. 429-9 part in the southern and eastern boundaries, for '416-1 part,' read '416-1.'

Against Government, dry, R.S. No. 429-7 part in the northern boundary, add '430-4.'

Against Government, dry, R.S. No. 446-15 part in the southern boundary, delete '446-15 part.'

Against Government, dry, R.S. No. 446-19 part in the southern boundary, delete '446-19 part.'

Against Government, dry, R.S. No. 446-18 part in the southern boundary, delete '446-18 part.'

Against Government, dry, R.S. No. 345-3 part in the northern boundary, for '345-2' read '345-2 part.'

Against Government, dry, R.S. No. 346-2 part in the southern boundary, delete '345-2 part.'

Against inam, dry, R.S. No. 372-2 part in the northern boundary, for '378-8,' read '378-8 parts.'

Against Government, dry, R.S. No. 369-2 part in the eastern boundary, for '365-5 part,' read '369-5 part.'

For Government, dry, R.S. No. 384-4 part, occurring after Government, dry, R.S. No. 348-8 part, read 'Government, dry, R.S. No. 348-4 part.'

Against Government, dry, R.S. No. 369-3 part in the names of owners, delete the names of 'M. Manicka Padayachi and Doraswami Padayachi,' and add the name of 'Sellamuthu Padayachi.'

Against Government, dry, R.S. No. 367-6 part in the name of owner, add the name of 'Sivamalammal (mortgagee).'

NOTIFICATIONS.

Fort St. George, September 6, 1938.

No. 74.—In exercise of the powers conferred by section 8 of the Canals and Public Ferries Act, 1890 (Madras Act II of 1890), the Government of Madras are hereby pleased to declare with effect on and from the date of publication of this notification the under-mentioned ferry in the Ponnani taluk of the Malabar district to be subject to the provisions of the said Act and to define the limits of the said ferry as follows:—

Vettam amsam.

[Name of ferry—Cheerpu ferry.]

Class of ferry—IV.

Limits of the ferry.

Eastern bank—Northern limit.—A point 59 links to the north of the survey stone at the south-west corner of S. No. 78 of Vettam amsam, where 'F' lines measuring 39 and 365 links meet.

Southern limit.—A point 89½ yards to the south of the survey stone at the south-west corner of S. No. 93 of Vettam amsam where 'F' lines measuring 506 and 437 links meet. Distance between the extreme limits of the ferry is 1,000 yards.

Western bank—Northern limit.—A point 67 links to the north of the survey stone at the north-east corner of S. No. 82 of Vettam amsam where 'F' line measuring 171 links of R.S. No. 82 and 'F' line measuring 799 links of R.S. No. 80 of Vettam amsam meet.

Southern limit.—A point 143½ yards to the south of the survey stone at the south-east corner of S. No. 84 of Vettam amsam where 'F' lines measuring 403 and 490 links meet. Distance between the extreme limits of the ferry is 1,000 yards.

No. 75.—In exercise of the powers conferred by section 10 of the Canals and Public Ferries Act, 1890 (Madras Act II of 1890), the Government of Madras are hereby pleased to fix the following as the tolls leviable upon passengers, animals, vehicles and goods, conveyed across the ferry referred to in Notification No. 74 supra:—

Scale of Tolls.

	RS.	A.	P.
1 For every adult and for every child over six years of age	0	0	1
2 For every sheep, goat or pig	0	0	1
3 For every unladen buffalo, bullock, bull, cow or calf	0	0	2
4 For every laden buffalo, bullock, bull, cow or calf	0	0	3
5 For every horse, pony, mule or donkey	0	0	10
6 For every palanquin, manchal, dhooly or tonjon including the bearers and passengers when their number is less than eight	0	3	0
7 For every palanquin, manchal, dhooly or tonjon including the bearers and passengers when their number is eight or more	0	4	0
8 For every bicycle or tricycle including the rider	0	2	0
9 For every unladen conveyance without springs including the men or animals drawing it and the driver	0	1	0
10 For every laden conveyance without springs including the men or animals drawing it and the driver	0	2	0
11 For every unladen conveyance on springs including the men or animals drawing it and the driver	0	3	0
12 For every laden conveyance on springs including the men or animals drawing it and the driver	0	4	0
13 For every 80 lb. of luggage or goods or part thereof in excess of the 82-2/7 lb. allowed free with every passenger	0	0	2
14 For every elephant	1	0	0

* Once in any one period of 24 hours counted from midnight to midnight.

Explanation.—(1) A conveyance containing one or more passengers or a conveyance containing luggage or goods exceeding one cwt. in weight shall be considered to be laden.

(2) In the case of items 2, 3, 4 and 5 any attendant or rider shall pay the toll leviable under item 1.

ACQUISITION OF LANDS.

Fort St. George, September 1, 1938.

Under section 6 of the Land Acquisition Act, the Government of Madras hereby declare that the lands specified below and measuring the extent noted below, be the same a little more or less, are needed for a public purpose, to wit, for excavation of a new irrigation channel from Pyderu; and, under sections 3 and 7 of the same Act, the Revenue Divisional Officer, Kavali, is appointed to perform the functions of a Collector under the Act and directed to take order for the acquisition of the said land. A plan of the land is kept in the office of the Revenue Divisional Officer, Kavali, and may be inspected at any time during office hours.

Nellore district, Kovur taluk, Uchaguntapalem village.

Inam, dry, R.S. No. 15, shrotriyamdars as per diglott register, Chaturvedula Pullayya and Chaturvedula Ramachandrayya, present shrotriyamdars Sannapureddi Subbarami Reddi, Chaturvedula Subbayya, Chaturvedula Gopalayya, Chaturvedula Krishnayya, son of Venkatarama Dikshitulu, Anaparthi Rukmanamma, Chaturvedula Nagamma, Chaturvedula Ramakotayya, Gadepalli Ramayya, Mylavarapu Venkatasubbayya, Chaturvedula Peramma, Chaturvedula Chenchuramayya, Chaturvedula Krishnayya, Puligandla Changayya, Rebala Sankara Reddi, Rebala Sundararami Reddi, Chaturvedula Pitchayya and Chaturvedula Ramamurti, tenants Unnam Virappa Nayudu, Unnam Peda Venkama Nayudu, Unnam Achamma, wife of Yerra Venkama Nayudu, Mancha Venkatasubbayya Nayudu, Marella Obulu Nayudu, Marella Venkatanarasappa Nayudu, Madineni Rama Nayudu, Vemula Subba Nayudu, Jiddi Appayya, Vinjam Lakshamma, wife of Pitchi Nayudu, Mora Narayudu, Otturu Seshamma, wife of Narayya, Vatturu Adilshamma, wife of Surayya, Kaliboyina Subbayya, Kaliboyina Pitchayya, Kaliboyina Suramma, wife of Ramayya, Otturu Venkayya, Dega Suramma, Otturu Surayya, Otturu Venkatasubbayya, wife of Narayya, Mora Polayya, Shaik Silar Sahib, Shaik Piru Sahib, Shaik Hussain Sahib, Shaik Imam Sahib, Kartham Lacha Reddi, Malineni Kondappa Nayudu, Tummala Subbadu, Bondili Vasudeva Singh, Gurrula Venkataswami, Tungaseshu Reddi, Kapalli Virigadu, Kapalli Perugadu, Kapalli Narigadu, Kapalli Venkati, wife of Venkatesugadu, Atmakuri Anki, Palukuri Venkatesugadu, Kapalli Ankadu, Palukuri Pottivadu, Battula Pulligadu, Kapalli Mastangadu, Kapalli Narasigadu, Tunga Seshamma, Palukuri Achi, wife of Venkati and Kodirekka Yadadu, mortgagees Vemireddi Ranga Reddi and Otturu Surayya, bounded on the north by R.S. No. 16; east by R.S. No. 1; south by Gandavaram village; west by R.S. No. 27 part	A08.
Inam, dry, R.S. No. 16, shrotriyamdars, etc., same as noted against R.S. No. 15, bounded on the north by R.S. No. 17; east by R.S. No. 2; south by R.S. No. 15; west by R.S. Nos. 6 and 27 part	0-52
Inam, dry, R.S. No. 17-1, shrotriyamdars, etc., same as noted against R.S. No. 15, bounded on the north by R.S. No. 6 part; east by R.S. Nos. 3 and 4; south by R.S. No. 17-2; west by R.S. No. 6 part	0-52
Inam, dry, R.S. No. 17-2, shrotriyamdars, etc., same as noted against R.S. No. 15, bounded on the north by R.S. No. 17-1; east by R.S. No. 3; south by R.S. No. 16; west by R.S. No. 6 part	0-56
Total	1-65

Gandavaram village.

Government, dry, S. No. 814-1 B, belonging to Kartam Chandrasekhara Reddi, minor by guardian mother Krishnamma, Aruganti Sankara Reddi, Chirra Raghava Reddi, Panditi Balarami Reddi, Pokuri Ademma, Penaka Seshamma, Subbarami Reddi and Boyipeta Narapa Nayudu, mortgagee Pisupati Balaramayya, bounded on the north by Uchaguntapalem village, S. No. 814-2; east by No. 814-2; south by No. 806-2 & 3; west by No. 814-1 A	0-62
Government, dry, S. No. 806-2, belonging to same as in S. No. 814-1 B, bounded on the north by No. 814-1 B; east by No. 806-3; south by No. 812-1 & 2; west by No. 806-1	0-44
Government, dry, S. No. 812-2, belonging to same as in S. No. 814-1 B, bounded on the north by Nos. 806-2 and 812-3; east by No. 812-3; south by No. 811-2; west by Nos. 812-1 and 806-2	0-65
Government, dry, S. No. 811-2, belonging to Pittu Subbamma, Pittu Subba Reddi, Pittu Venkata Reddi, Pittu Raghava Reddi, Pittu Narasa Reddi, Pittu Venku Reddi, Pittu Subbarami Reddi, bounded on the north by No. 812-2; east by No. 811-3; south by No. 850-2; west by No. 811-1	0-22
Government, dry, S. No. 850-2, belonging to Pokuri Venkatasubbayya, Pokuri Ademma, Kartam Chandrasekhara Reddi, minor by guardian mother Krishnamma, Panditi Balarami Reddi, mortgagee Pisupati Balaramayya, bounded on the north by No. 811-2; east by No. 849; south by No. 853-1 A-2; west by No. 850-1	0-46
Government, dry, S. No. 853-1 A-2, belonging to Penaka Seshamma, Penaka Subbarami Reddi, Penaka Kesavulu Reddi and Chaturvedula Ramamurti, bounded on the north by No. 850-2; east by No. 849; south by No. 853-1 B-2; west by No. 853-1 A-1	0-55
Government, dry, S. No. 853-2-1, belonging to Penaka Seshamma, Penaka Subbarami Reddi, Penaka Kesavulu Reddi and Chaturvedula Ramamurti, bounded on the north by No. 853-1 B-2; east by No. 849; south by No. 853; west by No. 853-2-2	0-55
Total	3-49

Uchaguntapalem village.

Inam, dry, R.S. No. 1, shrotriyamdars as per diglott register, Chaturvedula Pullayya and Chaturvedula Ramachandrayya, present shrotriyamdars Sannapureddi, Subbarami Reddi, Chaturvedula Subbayya, Chaturvedula Gopalayya, Chaturvedula Krishnayya, son of Venkatarama Dikshitulu, Anaparthi Rukmanamma, Chaturvedula Nagamma, Chaturvedula Ramakotayya, Gadepalli Ramayya, Mylavarapu Venkatasubbayya, Chaturvedula Peramma, Chaturvedula Chenchuramayya, Chaturvedula Krishnayya, Puligandla Changayya, Rebala Sankara Reddi, Rebala Sundararami Reddi, Chaturvedula Pitchayya and Chaturvedula Ramamurti, tenants Unnam Virappa Nayudu, Unnam Peda Venkama Nayudu, Unnam Achamma, wife of Yerravenkama Nayudu, Mancha Venkatasubba Nayudu, Marella Obulu Nayudu, Marella Venkatanarasappa Nayudu, Madineni Rama Nayudu, Vemula Subba Nayudu, Jiddi Appayya, Vinjam Lakshmana, wife of Pitchi Nayudu, Mora Narayudu, Otturu Seshamma, wife of Narayya, Otturu Adi Lakshamma, wife of Surayya, Kaliboyina Subbayya, Kaliboyina Pitchayya, Kaliboyina Suramma, wife of Ramayya, Otturu Venkayya, Dega Suramma, Otturu Surayya, Otturu Venkatasubbayya, wife of Narayya, Mora Polayya, Shaik Silar Sahib, Shaik Piru Sahib, Shaik Hussain Sahib, Shaik Imam Sahib, Kartham Lacha Reddi, Malineni Kondappa Nayudu, Tummala Subbadu, Bondili Vasudeva Singh, Gurrula Venkataswami, Tungaseshu Reddi, Kapalli Virigadu, Kapalli Perugadu, Kapalli Narigadu, Kapalli Venkati, wife of Venkatesugadu, Atmakuri Anki, Palukuri Venkatesugadu, Kapalli Ankadu, Palukuri Pottivadu, Battula Pulligadu, Kapalli Mastangadu, Kapalli Narasigadu, Tunga Seshamma, Palukuri Achi, wife of Venkati and Kodirekka Yadadu, mortgagees Vemireddi Ranga Reddi and Otturu Surayya, bounded on the north by R.S. No. 2; east by R.S. No. 27 part; south by Gandavaram village; west by R.S. No. 15	A08.
Inam, dry, R.S. No. 2, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by R.S. No. 3; east by R.S. No. 6 and 27 part; south by R.S. No. 1; west by R.S. No. 16	1-00
Inam, dry, R.S. No. 3-1, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by R.S. No. 4; east by R.S. No. 6 part; south by R.S. No. 3-2; west by R.S. No. 17	0-85
Inam, dry, R.S. No. 3-2, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on north by R.S. No. 3-1; east by B.S. No. 6 part; south by R.S. No. 2; west by R.S. No. 17	0-75
Inam, dry, R.S. No. 4, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by R.S. No. 5; east by B.S. No. 6 part; south by R.S. No. 3-1; west by R.S. No. 17 and B.S. No. 6 part	0-08
Inam, dry, R.S. No. 5, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by R.S. No. 6; east by B.S. No. 6 part; south by R.S. No. 4; west by B.S. No. 6 part	0-82
Inam, dry, R.S. No. 6, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by R.S. No. 7; east by B.S. No. 6 part; south by R.S. No. 5; west by B.S. No. 6 part	0-94
Inam, dry, R.S. No. 7, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by R.S. No. 8; east by B.S. No. 6 part; south by R.S. No. 6; west by B.S. No. 6 part and R.S. No. 9	0-87
Inam, dry, R.S. No. 8, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by B.S. No. 6 part; east by B.S. No. 7; south by B.S. No. 6 part; west by Pedaputhedu village	0-63
Inam, dry, R.S. No. 9, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by R.S. No. 7; east by B.S. No. 6 part; south by B.S. No. 10; west by B.S. No. 6 part	0-68
Inam, dry, R.S. No. 10, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by R.S. No. 9; east by B.S. Nos. 6 and 27 part; south by R.S. No. 11; west by B.S. Nos. 6 and 27 part	0-50
Inam, dry, R.S. No. 11, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by R.S. No. 10; east by B.S. No. 27 part; south by R.S. No. 12; west by B.S. No. 27 part	0-50
Inam, dry, R.S. No. 12, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by B.S. No. 11; east by B.S. No. 27 part; south by B.S. No. 13; west by B.S. No. 27 part	0-39
Inam, dry, R.S. No. 13, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by R.S. No. 12; east by B.S. No. 27 part; south by R.S. No. 14; west by B.S. No. 27 part	0-35
Inam, dry, R.S. No. 14, shrotriyamdars, etc., same as noted against R.S. No. 1, bounded on the north by R.S. No. 13; east, south and west by B.S. No. 27 part	0-82
Total	9-18

Kandavaram village.

Government, dry, S. No. 814-2, belonging to Kartam Chandra Sekhara Reddi, minor by guardian mother Krishnamma, Aruganti Sankara Reddi, Chirra Raghava Reddi, Penaka Subbarami Reddi, Penaka Seshamma, Panditi Balarami Reddi, Boyapati Narapa Nayudu and Pokuri Ademma, mortgagee Pisupati Balaramayya, bounded on the north by Uchaguntapalem whole inam village; east by No. 814-3; south and west by No. 814-1	1-32
Government, dry, S. No. 842-1 B, belonging to Devarapalli Chinnavadu, bounded on the north by No. 842-1 A; east by No. 842-2 B; south by No. 842-1 C; west by No. 847 B-2	0-70
Government, dry, S. No. 842-2 B, belonging to Devarapalli Venkatesu, bounded on the north by No. 842-2 A; east by No. 842-3 B; south by No. 842-2 C; west by No. 842-1 B	0-64
Government, dry, S. No. 842-3 B, belonging to Nannuri Chinnavenkadu, bounded on the north by No. 842-3 A; east by No. 842-4 B; south by No. 842-3 C; west by No. 842-2 B	0-50
Government, dry, S. No. 842-4 B, belonging to Punnipalli Poll, bounded on the north by No. 842-4 A; east by No. 842-5 B; south by No. 842-4 C; west by No. 842-3 B	0-43

Government, dry, S. No. 842-5 B, belonging to Devarapalli Venkasa, son of Yerra Ankadu, bounded on the north by No. 842-5 A; east by No. 843-2; south by No. 842-5 C; west by No. 842-4 B	ACB.
Government, dry, S. No. 847-B 2, belonging to Kartham Bangaru Reddi, Kartham Chenchu Reddi, Kartham Subba Reddi, Kartham Rasi Reddi, Kartham Pera Reddi and Kartham Bad Reddi, minor by guardian mother Venkatasubbaramu, bounded on the north by No. 835-2; east by Nos. 847 B-1 and 842-1 B; south and west by No. 847 B-3	0-33
Government, dry, S. No. 845-2, belonging to Penaka Subbaramu Reddi, Penaka Seshamma, Penaka Kesavulu Reddi, Penaka Sura Reddi and Penaka Narapa Reddi, bounded on the north by No. 843-1; east by No. 599 of Bodduvaripalem village; south by No. 843-3; west by No. 842-5 B	0-30
Personal inam, dry, (enfranchised), S. No. 834-1, inamdars Naria Subbarayudu, Panditi Tulasaamma, Guda Venkataramayya, Chirra Kota Reddi, Chirra Malekonda Reddi, Chirra Raghava Reddi, T. R. Parimalvam and Vishnu-bhotla Jalamma, enjoyers Kartham Chandra Sekhara Reddi minor by guardian mother Krishnamma, Pokuri Ademma, Kartham Chenchu Reddi, Kasula Ramayya, Panditi Narapa Reddi, Kartham Pera Reddi, Pittu Venku Reddi, Karodi Venku Reddi and Penaka Subbarami Reddi, bounded on the north by Nos. 829-1 and 834-3; east by No. 835-2; south by No. 848; west by No. 813	1-29
Personal inam, dry, (enfranchised), S. No. 835-2, inamdars same as in S. No. 834-1, enjoyers Naria Ramamoorthy, Chirra Kota Reddi and Panditi Narapa Reddi, bounded on the north and east by No. 835-1; south by No. 847 B-2; west by No. 834-1	1-08
Personal inam, dry, (enfranchised); S. No. 829-1, inamdars same as in S. No. 834-1, enjoyers Naria Ramamoorthi, Guda Venkataramayya, Kartham Chendrasekhara Reddi minor by guardian mother Krishnamma, Pokuri Ademma, Chirra Kota Reddi, Kartham Chenchu Reddi, Kasula Ramayya, Panditi Narapa Reddi, Kartham Pera Reddi, Pittu Venku Reddi, Karodi Venku Reddi and Penaka Subbarami Reddi, bounded on the north by No. 828-2; east by No. 829-2; south by No. 834-1; west by No. 813	0-10
Personal inam, dry, (enfranchised), S. No. 828-2, inamdars same as in S. No. 834-1, enjoyers Naria Ramamoorthi, Guda Venkataramayya, Chirra Kota Reddi, Panditi Narapa Reddi and Kartham Chandra Sekhara Reddi minor by guardian mother Krishnamma, bounded on the north by No. 827-1; east by No. 828-3; south by No. 829-1; west by No. 828-1	1-02
Personal inam, dry, (enfranchised), S. No. 827-1, inamdars same as in S. No. 834-1, enjoyers Naria Ramamoorthi, Guda Venkataramayya, Chirra Kota Reddi and Panditi Narapa Reddi, bounded on the north by Nos. 815 and 827-2; east by No. 827-3; south by No. 828-2; west by No. 815	0-49
	0-09
Total ..	8-29

Fort St. George, September 8, 1938.

Under section 6 of the Land Acquisition Act, the Government of Madras hereby declare that the land specified below and measuring 0-53 of an acre, be the same a little more or less, is needed for a public purpose, to wit, for forming field bothie under pipe No. 2 (a) from the Chinavadiapudi branch channel; and, under sections 3 and 7 of the same Act, the Special Deputy Collector, Tenali, is appointed to perform the functions of a Collector under the Act and directed to take order for the acquisition of the said land. Under sub-section (1) of section 17 of the Act, the Government of Madras further direct that the possession of the said land may be taken on the expiry of fifteen days from the date of the publication of the notice mentioned in section 9 (1) of the Act. A plan of the land is kept in the office of the Special Deputy Collector, Tenali, and may be inspected at any time during office hours.

Guntur district, Guntur taluk, No. 29. Chinavadiapudi village.

Ryotwari, dry, No. 58-1 B, registered holders Guntupalli Lakshmiakutamma, Passala Kristayya and Pennimthi Gangayya, registered holders and enjoyers Neppalli Seetharamayya, Neppalli Venkatakrisnayya and Neppalli Suryanarayana, enjoyer Mayinadi Narasimhayya, bounded on the north by No. 53-1 A; east by No. 53-2 & 1-C; south by No. 58-1 C; west by Nos. 60 A & B and 59-1	ACB.
Ryotwari, dry, No. 59-1, registered holders Kurra Rukminamma, Saranu Kristayya, Kurra Hanumayya and Kurra Anjaya, registered holders and enjoyers Yella Venkateswaru and Kurra Narasimham, bounded on the north by No. 60 B; east by No. 58-1 B; south by No. 59-2; west by No. 62-2 B	0-15
Ryotwari, dry, No. 62-2 B, registered holders Saranu Kristayya, Saranu Sitharamayya and Saranu Anjaya, registered holders and enjoyers Kurra Hanumayya and Kurra Narasimham, bounded on the north by No. 62-2 A; east by Nos. 59-1 and 62-2 C; south by No. 62-2 C; west by No. 63-3 A, 3-B & 4-A	0-15
Ryotwari, dry, No. 63-3 B, registered holders and enjoyers Vallveti Venkatrayudu and Vallveti Nagayya, bounded on the north by No. 63-3 A; east by No. 62-2 B; south by No. 63-4 A; west by No. 64-1 A	0-05
Ryotwari, dry, No. 63-4 A, registered holders Kurra Rukminamma, Kurra Narasimham and Kurra Anjaya, registered holder and enjoyer Kurra Hanumayya, bounded on the north by No. 63-3 B; east by Nos. 62-2 B and 63-4 B; south by No. 63-4 B; west by Nos. 64-1 A & 1-B and 65-2 A	0-01
	0-06

Ryotwari, dry, No. 64-1 B, registered holders Vallveti Veerayya, Guduru Veerayya, Guduru Seshayya, Guduru Bhaskara Rao and Guduru Murahari Rao, registered holders and enjoyers Gunduru Gopalam and Gudapati Murahari, enjoyer Soorapaneni Ramaseshaya, bounded on the north by No. 64-1 A; east by No. 63-4 A; south by No. 65-2 A; west by No. 64-2 B	ACB.
Ryotwari, dry, No. 64-2 B, registered holders Vallveti Atchayya, Vallveti Pitchayya, Vallveti Nagayya and Vallveti Subba Rao, registered holders and enjoyers Vallveti Murahari Rao and Vallveti Suryanarayana, enjoyer Vallveti Andi Narayana, bounded on the north by No. 64-2 A; east by No. 64-1 B; south by No. 65-1 A; west by No. 76	0-03
Ryotwari, dry, No. 65-1 A, registered holder and enjoyer Guduru Seshayya, bounded on the north by No. 64-2 B; east by No. 65-2 A; south by No. 65-1 B; west by No. 76	0-03
Ryotwari, dry, No. 65-2 A, registered holders Vallveti Pitchayya, Vallveti Murahari Rao and Vallveti Suryanarayana, registered holder and enjoyer Vallveti Nagayya, bounded on the north by No. 64-1 B; east by No. 63-4 A; south by No. 65-2 B; west by No. 65-1 A	0-02
	0-02
Total ..	0-63

Fort St. George, September 3, 1938.

Under section 6 of the Land Acquisition Act, the Government of Madras hereby declare that the land specified below and measuring 0-74 of an acre, be the same a little more or less, is needed for a public purpose, to wit, for excavating the bothie under sluice No. 4-L to the main channel; and, under sections 3 and 7 of the same Act, the Special Deputy Collector, Guntur, is appointed to perform the functions of a Collector under the Act and directed to take order for the acquisition of the said land. Under sub-section (1) of section 17 of the Act, the Government of Madras further direct that the possession of the said land may be taken on the expiry of fifteen days from the date of the publication of the notice mentioned in section 9 (1) of the Act. A plan of the land is kept in the office of the Special Deputy Collector, Guntur, and may be inspected at any time during office hours.

Guntur district, Guntur taluk, Kovelamudi village.

Ryotwari, dry, No. 134-1, registered holders Thota Nagulu (died), Thota Swami, Thota Bhagirathi, Anthu Subbarayudu (died), Allam Pichamma and Thota Veerappa (died), enjoyer Anthu Rangayya, bounded on the north by No. 150 B; east by No. 147-2; south by No. 134-2; west by No. 153-1 B-1	ACB.
Unenfranchised devadayam inam, dry, No. 146-2, registered holder and enjoyer Sri Nagaswara Swami Varu of Chebrole, trustee Devabhaktuni Venkata Subbaya, bounded on the north by No. 147-2; east, south and west by No. 146-1	0-08
Enfranchised personal inam, dry, No. 147-2, registered holders Jonnalagadda Subba Rao, Busam Adi Lakshmi (died), Mallapragada Venkata Chelapathi Rao, Pillalamarri Ademma (died), Pillalamarri Basavakotayya, enjoyers President, District Board, Guntur, Pillalamarri Lakshminarayana, Pillalamarri Subba Rao, Pillalamarri Ramamurthi, Pillalamarri Suryanarayana and Pillalamarri Venkata Krishnayya, bounded on the north by Nos. 150 B and 149; east by No. 147-3; south by Nos. 147-1 and 146-2; west by Nos. 134-1 and 147-1	0-16
Ryotwari, dry, No. 153-1 B-1, registered holders Anthu Narasimhulu (died), Pallabothu Basavayya, enjoyers Pallabothu Basavayya, Anthu Venkateswami, Anthu Rangayya, bounded on the north by No. 152; east by Nos. 150 B and 134-1; south by No. 153-1 B-2; west by Nos. 159-3 B and 153-1 B-2	0-22
Ryotwari, dry, No. 159-3 B, registered holders Kotupalli Veerayya (died), Kotupalli Nagayya (died), Kotupalli Lakshmayya (died) and Kotupalli Tatayya (died), enjoyer Kotupalli Appayya, bounded on the north by No. 159-3 A; east by No. 153-1 B-1; south by No. 159-3 C; west by No. 159-2	0-25
	0-03
Total ..	0-74

Fort St. George, September 8, 1938.

Under section 6 of the Land Acquisition Act, the Government of Madras hereby declare that the land specified below and measuring 0-10 of an acre, be the same a little more or less, is needed for a public purpose, to wit, for a branch field bothie; and, under sections 3 and 7 of the same Act, the Revenue Divisional Officer, Mannargudi, is appointed to perform the functions of a Collector under the Act and directed to take order for the acquisition of the said land. A plan of the land is kept in the office of the Revenue Divisional Officer, Mannargudi, and may be inspected at any time during office hours.

Tanjore district, Mannargudi taluk, No. 135. Aseeham village.

Government, dry, B.S. No. 234 B-2 A, belonging to 176 Mangalathammal, bounded on the north by B.S. No. 357; east by B.S. Nos. 234 B-2 B and 357; south by B.S. No. 229 A-1 A & 2; west by B.S. Nos. 234 B-1 B and 237 B	ACB.
	0-10

Under section 6 of the Land Acquisition Act, the Government of Madras hereby declare that the land specified below and measuring 0.25 of an acre, be the same a little more or less, is needed for a public purpose, to wit, for the extension of the field bothis under pipe No. 15 from the East Main branch channel; and, under sections 3 and 7 of the same Act, the Special Deputy Collector, Tenali, is appointed to perform the functions of a Collector under the Act, and directed to take order for the acquisition of the said land. Under sub-section (1) of section 17 of the Act, the Government of Madras further direct that the possession of the said land may be taken on the expiry of fifteen days from the date of publication of the notice mentioned in section 9 (1) of the Act. A plan of the land is kept in the office of the Special Deputy Collector, Tenali, and may be inspected at any time during office hours.

Guntur district, Tenali taluk, No. 1. Chiluvur village.

	ACRE.
Eyotwari, dry, S. No. 331-1 A, registered holder Mikkilineni Gangayya, registered holder and enjoyer Kondapaneni Basavayya, bounded on the north by No. 308-1; east by No. 331-4 A-1; south by No. 331-1 B; west by No. 282.	0.23
Eyotwari, dry, S. No. 331-4 A-1, registered holder Kumbha Rainaswami, enjoyer Kumbha Seshayl, bounded on the north by No. 308-1; east by No. 331-4 B; south by No. 331-4 A-2; west by No. 331-1 A	0.02
Total ..	0.25

Whereas it appears to the Government of Madras that the land specified below is needed for a public purpose, to wit, for providing drainage facilities, notice to that effect is hereby given to all whom it may concern in accordance with the provisions of section 4 (1) of the Land Acquisition Act I of 1894, as amended by the Land Acquisition Amendment Act XXXVIII of 1923; and, the Government of Madras hereby authorize the Revenue Divisional Officer, Musiri, his staff and workmen to exercise the powers conferred by section 4 (2) of the Act. Under section 3 (c) of the same Act, the Government of Madras appoint the Revenue Divisional Officer, Musiri, to perform the functions of a Collector under section 5-A of the Act.

Trichinopoly district, Musiri taluk,
Srinivasanallur village.

	Approximate extent.
Government, wet, S.F. No. 206 part, belonging to Chinayya Pillai, Coronation Choultry at Trichinopoly, represented by the trustee for the time being N. C. P. Swami Pillai and Kandaswami Pillai (lessee), bounded on the north by S.F. No. 206 part; east by S.F. Nos. 200-1 and 205-1 of Alagarai village; south by S.F. No. 207; west by S.F. No. 206 part	0.02

Fort St. George, August 30, 1938.

Under section 6 of the Land Acquisition Act the Government of Madras hereby declare that the land specified below and measuring 0.80 of an acre, be the same a little more or less, is needed for a public purpose, to wit, for construction of anicut across Durvaleru near Chapalamadugu and excavating a supply channel; and, under sections 3 and 7 of the same Act, the Revenue Divisional Officer, Markapur, is appointed to perform the functions of a Collector under the Act and directed to take order for the acquisition of the said land. A plan of the land is kept in the office of the Revenue Divisional Officer, Markapur, and may be inspected at any time during office hours.

Kurnool district, Markapur taluk, Komarole village.

	ACRE.
Government, dry, S. No. 69-2, belonging to Lambadi Somanalek, bounded on the north by S. No. 535 of Chapalamadugu; east by No. 68-1 F; south by No. 68-1 E; west by No. 69-1	0.80

Fort St. George, September 2, 1938.

Whereas it appears to the Government of Madras that the land specified below is needed for a public purpose, to wit, for forming a common bank for the Pudukottagam and Ramankottagam channels, notice to that effect is hereby given to all whom it may concern in accordance with the provisions of section 4 (1) of the Land Acquisition Act I of 1894, as amended by the Land Acquisition Amendment Act XXXVIII of 1923; and the Government of Madras hereby authorize the Revenue Divisional

Officer, Mannargudi, his staff and workmen to exercise the powers conferred by section 4 (2) of the Act. Under section 3 (c) of the same Act, the Government of Madras appoint the Revenue Divisional Officer, Mannargudi, to perform the functions of a Collector under section 5-A of the Act.

Tanjore district, Tiruturaipundi taluk,
No. 135. Turaikadu village.

	Approximate extent.
Inam, dry, R.S. No. 387-4 part, melvaramdar Mohanambaluram alias Rajamadan chatram, under the management of the President, District Board, West Tanjore, Tanjore, kudivaramdar A. N. S. T. Suppayya Tevar, son of Chidambara Tevar, bounded on the north and east by R.S. No. 106-3; south by R.S. No. 387-5 part and 4 part; west by R.S. No. 387-4 part	4
Inam, dry, R.S. No. 387-5 part, melvaramdar Mohanambaluram alias Rajamadan chatram, under the management of the President, District Board, West Tanjore, Tanjore, kudivaramdar V. Bengaswami Tevar, son of Venkatachala Tevar, bounded on the north by R.S. Nos. 106-3 and 387 part; east by R.S. No. 106-3; south by R.S. Nos. 387-5 part and 107; west by R.S. No. 387-5 part	3
Total ..	7

Fort St. George, September 3, 1938.

Whereas it appears to the Government of Madras that the land specified below is needed for a public purpose, to wit, for the formation of a road from the Medur channel to the Inspection Bungalow at Penumatsa, notice to that effect is hereby given to all whom it may concern, in accordance with the provisions of section 4 (1) of the Land Acquisition Act I of 1894, as amended by the Land Acquisition Amendment Act XXXVIII of 1923; and the Government of Madras hereby authorize the Revenue Divisional Officer, Nuzvid, his staff and workmen to exercise the powers conferred by section 4 (2) of the Act. Under section 3 (c) of the same Act, the Government of Madras appoint the Revenue Divisional Officer, Nuzvid, to perform the functions of a Collector under section 5-A of the Act.

Kistna district, Gannavaram taluk,
Krishnapuram village.

	Approximate extent.
Personal inam, dry, covered by R.S. No. 368-3 part, belonging to Prabahala Ramayya, Prabahala Punayya and Prabahala Venkata Subbayya, melvaramdara Prabahala Ramayya, Prabahala Punayya and Prabahala Venkata Subbayya, bounded on the north by R.S. No. 368-3 part (personal inam); east and south by Penumatsa (village-site); west by R.S. Nos. 368-3 part and 372 part (donka paramboke)	0.41

K. RAMUNNI MENON,
Secretary to Government.

(Buildings and Roads.)

ACQUISITION OF LAND.

Fort St. George, September 6, 1938.

Under section 6 of the Land Acquisition Act, the Government of Madras hereby declare that the land specified below and measuring 0.40 of an acre, be the same a little more or less, is needed for a public purpose, to wit, for extension of Veterinary Hospital at Ranipet; and, under sections 3 and 7 of the same Act, the Revenue Divisional Officer, Ranipet, is appointed to perform the functions of a Collector under the Act and directed to take order for the acquisition of the said land. A plan of the land is kept in the office of the Revenue Divisional Officer, Ranipet, and may be inspected at any time during office hours.

North Arcot district, Wallajah taluk, Karai village.

	ACRE.
Government, dry, No. 680-8, belonging to Muhammad Hussain Sahib, bounded on the north by No. 680-7 A & E; east by No. 682; south by No. 681-1; west by No. 680-5	0.39
Government, dry, No. 681-1, belonging to Muhammad Hussain Sahib, bounded on the north by No. 680-8; east by No. 682; south by No. 681-2; west by No. 680-5	0.01
Total ..	0.40

K. RAMUNNI MENON,
Secretary to Government.

(Marine.)

NOTIFICATION.

Fort St. George, September 13, 1938.

No. 80.—

The following notifications of the Government of India are republished:—

DEPARTMENT OF COMMERCE.

MERCHANT SHIPPING.

Simla, the 27th August 1938.

No. 42-M.I. (8)/38.—In exercise of the powers conferred by section 219 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government is pleased to direct that the following further amendment shall be made in the Indian Merchant Shipping (Load Line) Rules, 1934, the same having been previously published as required by the said section, namely:—

For the First Schedule to the said rules, the following Schedule shall be substituted, namely:—

"FIRST SCHEDULE.

Standard fees.

Gross Tonnage.	Classed Ships.		Unclassed Ships.	
	Fees.		Fees.	
	1 Issue or renewal of Certifi- cate.	2 Ann- ual sur- vey.	3 Issue or renewal of Certifi- cate.	4 Ann- ual sur- vey.
	RS.	RS.	RS.	RS.
Under 100 tons ..	48	16	96	16
100 tons and under 300 tons ..	64	16	128	16
300 tons and under 500 tons ..	96	24	178	24
500 tons and under 1,000 tons ..	128	32	240	32
1,000 tons and under 1,500 tons ..	160	40	304	40
1,500 tons and under 2,000 tons ..	176	48	352	48
2,000 tons and under 2,500 tons ..	192	48	400	48
2,500 tons and under 3,000 tons ..	208	50	448	50
3,000 tons and under 4,000 tons ..	224	64	496	64
4,000 tons and under 5,000 tons ..	240	64	544	64
5,000 tons and under 6,000 tons ..	256	64	592	64
6,000 tons and under 7,000 tons ..	272	64	640	64
7,000 tons and under 8,000 tons ..	288	64	688	64
8,000 tons and under 9,000 tons ..	304	64	736	64
9,000 tons and under 10,000 tons ..	320	64	784	64
10,000 tons and above ..	320	64	48*	64

Variations of Standard Fees—

(1) Annual Survey carried through in one operation.—For every annual survey of any ship over 500 tons (classed or unclassed) which is carried through in one operation there shall be paid:—

(a) the standard fee, and

(b) in addition, a single fee of Rs. 16 if, for the purposes of the survey, more than one visit is paid to the ship by the Surveyor.

(2) Annual Survey not carried through in one operation.—For every annual survey of any ship (classed or unclassed) which is not carried through in one operation there shall be paid:—

(a) the standard fee, and

(b) in addition, a fee of Rs. 16 for every partial annual survey, and

(c) for any ship over 500 tons, in addition, a single fee of Rs. 16 for every partial annual survey in respect of which, for the purposes of the partial annual survey, more than one visit is paid to the ship by the Surveyor.

(3) Where the survey for the issue or renewal of a load line certificate is carried out by the Government of India Surveyor concurrently with that for a certificate of survey or certificate of survey and safety certificate and the ship is—

(a) a classed ship—no fee will be charged under column 1;

(b) an unclassed ship—half the fee under column 3 will be charged.

(4) Where the annual load line survey is made by the Government of India Surveyor at the same time as the survey for the issue of a certificate of survey or certificate of survey and safety certificate, no fee will be charged under column 2 or column 4.

(5) Where minor alterations have been made to a ship having a load line certificate in force, which involve an alteration of the free-board but do not require a full survey, the fee will be half the fee

in column 1, whether to ship is classed or unclassed.

(6) Where for special reasons a partial survey is made and a certificate is issued or renewed for a period not exceeding twelve months, one-half of the fee appropriate to a full survey will be charged.

(7) For issue of a duplicate copy of a vessel's load-line certificate in the event of the original being lost a fee of Rs. 5 will be charged.

(8) In addition to the fees payable under the above schedule there shall be payable along with an application for survey for a load-line certificate a fee of Rs. 60 in respect of every survey which is required by such application to be made on any of the following days, namely—

- (a) Sunday.
- (b) New Year's Day.
- (c) Good Friday.
- (d) The King-Emperor's Birthday.
- (e) Christmas Day.

(9) The charge of overtime fees in respect of surveys of inspections for a load line certificate wholly or partially carried out between the hours of 5 p.m. and 7 a.m. shall be regulated as follows:—

(a) Where on the application of the owner or agent of the ship a Surveyor is called upon to undertake the survey or inspection of a vessel after 5 p.m. and before 7 a.m. an additional fee of Rs. 50 shall be charged;

(b) where a Surveyor is detained at the request of the owner or agent after 5 p.m. to complete a survey undertaken between the hours of 7 a.m. and 5 p.m., an additional fee of Rs. 25 if the Surveyor is released from duty before 6 p.m., and of Rs. 50 if he is detained later than 6 p.m., shall be charged;

(c) where the owner or agent has asked for survey between the hours of 7 a.m. and 5 p.m. but official arrangements have not allowed of the work being done between those hours no additional fee shall be chargeable;

(d) where a Surveyor has been called upon as specified in clause (a) or detained as specified in clause (b) the owner or agent shall give information of the fact in writing to the Principal Engineer and Ship Surveyor of the port stating the hours during which the Surveyor was in attendance."

DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

PUBLIC HEALTH.

Simla, the 25th August 1938.

No. F. 33-45/37-G.—In exercise of the powers conferred by sub-section (1) of section 213 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Pilgrim Ships Rules, 1933, the same having been previously published as required by sub-section (5) of the said section, namely:—

In rule 119 of the said rules—

(i) For sub-rule (1) the following sub-rule shall be substituted, namely:—

"(1) In all pilgrim ships at least four adequately screened washing places shall be provided on the deck, a sufficient number being reserved exclusively for women.

In the case of ships intended for service as pilgrim ships the keels of which are laid on or after the 1st September 1938 or ships which enter the pilgrim trade on or after that date, there shall be provided on the deck at least one adequately screened washing place per two hundred and fifty passengers or fraction thereof of the total number of passengers the ship is certified to carry. A sufficient number of these washing places shall be reserved exclusively for women."

(ii) Sub-rules (2) and (3) shall be renumbered as sub-rules (3) and (4), respectively, and before sub-rule (3) as so renumbered, the following sub-rule shall be inserted, namely:—

"(2) The washing places shall be supplied with pipes fitted with taps or nozzles able to yield a continuous supply of sea water with pressure even when the ship is at anchor: these taps or nozzles shall be in the proportion of 1 for every 100 pilgrims or fraction of that number in excess of 100."

K. RAMUNNI MENON,
Secretary to Government.

SURVEY OF INDIA.

LIST OF MAPS PUBLISHED DURING THE MONTH OF JULY 1938.

Geographical, General and Special Maps.—Obtainable from the Officer-in-charge, Map Record and Issue Office, 13, Wood Street, Calcutta.

Description.	Year of survey.	Date of edition.	Number of sheets.	Size per sheet in inches.	Price.	Remarks.
SPECIAL MAPS.						
CANTONMENT PLANS.						
<i>(Scale 16 inches to 1 mile.)</i>						
* Abbottābād Cantonment	1936-37	1938	3	Various	RS. A. 2 0	Third (Revised) Edition.
Rāwalpīndī Cantonment Sheets Nos. 4 and 10 ..	1936-37	1938	2	"	per sheet 2 0 per sheet	Do.

* This publication supersedes item 1 of Appendix 5 of the Map Catalogue.

NOTE.—Delete item No. 119 of Appendix 5 of the Map Catalogue. Cantonment Plans are obtainable from the Director, Geodetic Branch, Survey of India, Dehra Dūn.

Topographical Maps.—Obtainable from the Officer-in-charge, Map Record and Issue Office, 13, Wood Street, Calcutta.

Index number.	District, etc.	Year of survey.	Date of edition.	Price.	Remarks.
				RS. A.	
1. QUARTER-INCH MAPS.					
<i>(Scale 1 inch to 4 miles.)</i>					
† 47 A .. "Thāna"			1936	0 12	Second Edition.
‡ 47 H .. Bātāgīrī			Various	1 0	Provisional Issue.
2. ONE-INCH MAPS.					
<i>(Scale 1 inch to 1 mile.)</i>					
30 K-14 .. Parts of Dera Ghāzi Khān and Muzaffargarh Districts.		1936-37	1937	1 8	Third (Revised) Edition.
† 43 C-6 .. Part of Attock District		1908-09	1938	1 8	Third Edition.
44 E-5 .. Parts of Gujranuvāla, Lyallpur and Shekhā-pura Districts.		1910-11	1937	1 8	Second (Revised) Edition.
58 K-14 .. Parts of Garhwāl and Nainī Tāl Districts ..		1915-17	1937	1 8	(a)
63 N-15 .. Parts of Sāran, Azamgarh and Gorakhpur Districts.		1921-22	1938	1 8	Second Edition.
72 O-4 .. Parts of Bhāgalpur, and Santāl Parganas Districts.		1936-37	1937	1 8	(a)
72 O-15 .. Parts of Mālda and Purnea Districts		1936-37	1937	1 8	(a)
83 D-6 .. Parts of Cāchār and Sylhet Districts		1909-10	1938	1 8	Second Edition.
§ 92 D-10 .. Parts of Bhāmo and Myitkyīna Districts ..		1918-14	1938	1 8	Do.
†§ 93 B-16 .. Parts of Kyanke and Mandalay Districts and Northern and Southern Shan States.		1930-31	1938	1 8	Third Edition.
§ 92 D-12 .. Parts of Yamethīn District and Southern Shan States.		1936-37	1937	1 8	(a)
§ 94 B-9 .. Part of Toungoo District		1904-06	1938	1 8	Second Edition.

† Gridded copies of these maps can be supplied at annas three per copy extra.

‡ Complimentary copies of this map will not be issued.

§ Copies of these maps are obtainable from the Curator, Government Book Depot, Rangoon, Burma.

C. G. LEWIS, Brigadier,
Surveyor-General of India.

GOVERNMENT OF MADRAS
DEVELOPMENT DEPARTMENT

PRESS COMMUNIQUE.

Dated Fort St. George, the 16th November 1938.

The Madras Agriculturists' Relief Act, 1938, providing for the relief of indebted agriculturists in this Province was brought into force on the 22nd March 1938. The rules under the Act were published on the 24th March 1938. The following two statements show the working of the Act and the nature and extent of the relief afforded to indebted agriculturists thereunder by all civil courts in the Presidency during each of the months of May, June, July and August 1938 and during the period of six months ending with August 1938. The statements do not of course cover cases of voluntary settlement by parties without going to court.

STATEMENT NO. I.

Statement showing the working of the Madras Agriculturists' Relief Act, 1938, for the months of May, June, July and August 1938.

Description of Items.	May 1938.	June 1938.	July 1938.	August 1938.
Number of cases pending at the beginning of the month	7,371	9,089	16,900	19,209
Number of cases received during the month	3,001	14,413	12,595	10,541
Number of cases to which the Act was applied <i>ex motu</i> by courts	6	37	26	35
Number of cases omitted to be included in the previous month	60	..	..	..
Total	10,438	23,539	29,521	29,785
Number of cases disposed of during the month—				
Under section 8—				
Number	153	521	1,062	1,191
Amount involved	Rs. 53,475-3-0	2,33,854-10-6	6,47,714-15-9	7,90,396-12-10
Amount as scaled down .. .. .	.. 32,261-3-6	1,23,482-7-7	3,42,806-5-7	3,96,405-3-0
Under section 9—				
Number	132	487	866	1,011
Amount involved	Rs. 26,302-8-7	1,03,183-11-2	2,35,586-8-6	2,46,453-14-5
Amount as scaled down .. .. .	.. 18,253-13-0	69,867-11-7	1,67,963-11-3	1,83,087-1-0
Under section 13—				
Number	32	31	94	76
Amount of interest involved	Rs. 2,601-0-0	2,645-0-0	10,731-0-0	5,939-0-0
Amount of interest as scaled down .. .. .	.. 701-0-0	1,121-8-0	3,097-0-0	3,075-0-0
Under section 18 (1)—				
Number	25	128	200	241
Amount of costs involved	Rs. 1,339-0-0	5,048-2-3	14,112-3-2	49,694-12-3
Amount of costs as scaled down .. .. .	.. 1,121-0-0	3,692-15-7	9,985-12-8	26,736-3-3
Under section 19—				
Number	54	620	2,385	3,852
Amount as originally decreed	Rs. 38,862-3-6	2,28,651-8-10	13,06,329-11-11	29,34,247-13-11
Amount as scaled down in the amended decree .. .. .	.. 22,729-10-2	1,36,367-13-9	7,33,629-5-3	13,77,766-11-10
Under section 20—				
Number	888	4,364	4,768	3,659
Under section 21—				
Number .. .. .	..	12	15	11
Amount involved	Rs. ..	15,777-8-10	5,391-9-9	2,928-1-2
Amount as scaled down .. .. .	.. ..	11,716-5-10	3,038-0-0	2,147-2-1
Under section 22—				
Number .. .. .	..	..	2	2
Amount refunded	Rs. ..	..	240 0 0	..
Under section 23—				
Number	71	485	929	634
Total number of cases disposed of during the month	1,355	6,648	10,321	10,677
Add—(a) Number of cases disposed of under section 15 .. .. .	..	24	49	45
(b) Number of cases disposed of otherwise than under the Act .. .. .	..	7	38	33
Deduct—Number of cases disposed of under more than one section of the Act	6	40	95	70
Net number of cases disposed of during the month	1,349	6,639	10,313	10,685
Number of cases pending at the close of the month	9,089	16,900	19,209	19,100

STATEMENT No. II.

Statement showing the working of the Madras Agriculturists' Relief Act, 1938, during the half-year ending with August 1938.

Number of cases pending at the beginning of the half-year	516
Number of cases received during the half-year	54,449
Number of cases to which the Act was applied <i>suo motu</i> by courts	140
Total	<u>55,105</u>

Number of cases disposed of during the half-year—

Under section 8—	
Number	3,621
Amount involved	Rs. 20,83,763-9-1
Amount as scaled down	„ 10,69,255-11-9
Under section 9—	
Number	3,169
Amount involved	Rs. 7,43,773-11-11
Amount as scaled down	„ 5,32,818-0-5
Under section 13—	
Number	351
Amount of interest involved	Rs. 31,101-5-3
Amount of interest as scaled down	„ 10,124-12-4
Under section 18 (1)—	
Number	760
Amount of costs involved	Rs. 78,608-12-3
Amount of costs as scaled down	„ 48,152-1-0
Under section 19—	
Number	7,023
Amount as originally decreed	Rs. 46,42,686-13-9
Amount as scaled down in the amended decree	„ 23,65,523-7-10
Under section 20—	
Number	18,748
Under section 21—	
Number	98
Amount involved	Rs. 29,849-2-0
Amount as scaled down	„ 18,735-7-11
Under section 22—	
Number	6
Amount refunded	Rs. 240
Under section 23—	
Number	2,313

Total amount involved in applications disposed of under sections 8, 9, 13, 18 (1), 19 and 21 during the half-year	Rs. 76,09,788-6-3
Total amount as scaled down during the half-year	„ 40,41,609-9-3
Total amount of reduction by scaling down and its percentage to the amount originally due	„ 35,65,178-13-0 or 47 per cent.

Total number of cases disposed of during the half-year	36,086
Add—Number of cases disposed of under section 15 of the Act	117
Number of cases disposed of otherwise than under the Act	81
Deduct—Number of cases disposed of under more than one section of the Act	279
Net number of cases disposed of during the half-year	36,005
Number of cases pending at the close of the half-year	19,100

C. J. PAUL,
Secretary to Government.



PUBLIC (POLITICAL) DEPARTMENT
NO. 2490-1.

From

G. T. Boag Esq., C.S.I., C.I.E., I.C.S.,
Chief Secretary to the Government of Madras.

To

The Secretary,
Servants of India Society,
P o o n a 4.

Dated, Fort St. George, the 7th February 1939.

Sir,

Agency - Aborigines - Alienation of lands.
Ref:- Your letter No.01123, dated 22-1-1939.

With reference to your letter cited above, I am directed to forward a copy of the Agency Tracts Interest and Land Transfer Act, 1917 (Act I of 1917) which will show the restrictions on alienations of lands of a hill tribe in the agency tracts of this Province. As regards the working of the Act no consolidated account is available. A small para will however be found in the administration reports of the East Godavari and Vizagapatam Agencies. Copies of which may be obtained from the Superintendent, Government Press, Mount Road, Madras on payment.

I have the honour to be,

Sir,

Your most obedient servant,

for Chief Secretary to Government.

msf

Mnc.

X9(J): (221)

E7

MADRAS ACT I of 1917.

*An Act to regulate the rate of interest and the transfer of land in the
Ganjām, Vizagapatam and Gōdāvari Agency Tracts.*

WHEREAS it is expedient to limit the rate of interest and to check transfers of land in the Agency tracts of the Ganjām, Vizagapatam and Gōdāvari districts; It is hereby enacted as follows:— Preamble

1. This Act may be called the Agency Tracts Interest and Land Transfer Act, 1917. Short title

2. In this Act unless there is anything repugnant in the subject or context— Definition

(a) "Agency tracts" means the scheduled districts as defined in Acts XIV and XV of 1874 and included within the districts of Ganjām, Vizagapatam and Gōdāvari.

(b) "Agent" means "Agent to the Governor" in the districts of Ganjām and Vizagapatam and "Government Agent" in the district of Gōdāvari.

(c) "hill tribe" means any body or class of persons resident in the Agency tracts (not being a landholder as defined in the Madras Estates Land Act, 1908) that may from time to time be notified as such for the purposes of the Act by the Governor in Council.

(d) "immovable property" does not include standing timber, growing crops or grass.

(e) "prescribed" means prescribed by rules made under this Act.

(f) "transfer" means mortgage with or without possession, lease, sale, gift, exchange or any other dealing with property not being a testamentary disposition, and includes a charge or any contract relating to immovable property.

Maximum interest that may be allowed as against a member of a hill tribe.

3. In any suit instituted after the commencement of this Act, notwithstanding any agreement to the contrary,

(a) Interest on any debt or liability shall not as against a member of a hill tribe be allowed or decreed at a higher rate than twenty-four per centum per annum nor shall any compound interest or any collateral advantage be allowed as against him;

(b) The total interest allowed or decreed on any debt or liability as against a member of a hill tribe shall not exceed the principal amount.

Transfer of immovable property by a member of a hill tribe.

4. (1) Notwithstanding any rule of law or enactment to the contrary, any transfer of immovable property situated within the Agency tracts by a member of a hill tribe shall be absolutely null and void unless made in favour of another member of a hill tribe, or with the previous consent in writing of the Agent or of any other prescribed officer.

(2) Where a transfer of property is made in contravention of sub-section (1), the Agent or any other prescribed officer may, on application by any one interested, decree ejectment against any person in possession of the property claiming under the transfer and may restore it to the transferor or his heirs.

(3) Subject to such conditions as may be prescribed, an appeal against a decree or order under sub-section (2) if made by the Agent shall lie to the Governor in Council and if made by any other officer shall lie to the Assistant Agent or to the Agent as may be prescribed.

Suits against a member of a hill tribe to be instituted in the Agency courts.

5. Notwithstanding the provisions of any law to the contrary, every suit against a member of a hill tribe instituted after the commencement of this Act shall be instituted only in the courts of the Agency tracts.

Attachment of immovable property.

6. In execution of a money-decree against a member of a hill tribe, no immovable property owned by him within the Agency tracts shall be liable to be attached and sold except as and if prescribed.

Framing of rules.

7. (1) The Governor in Council may from time to time make rules to carry out the purposes of the Act.

(2) All rules made under this section shall be published in the *Fort St. George Gazette* and, on such publication, shall have the same effect as if enacted in this Act.

Savings.

8. (1) This Act shall not affect transfers made or debts or liabilities incurred before the coming into force of this Act.

Madras Act I of 1908.

(2) Nothing in this Act shall affect a landholder's right to proceed against the ryot in accordance with the provisions of the Madras Estates Land Act, 1908, or the first charge declared by section 5 of that Act, or the provisions of the said Act regarding relinquishment of a holding by a ryot.

REGISTERED No. P 390

X 63: (2254)
98



The Orissa Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY.

CUTTACK, TUESDAY, AUGUST 23, 1938.

LAW AND COMMERCE DEPARTMENT.

NOTIFICATION.

The 23rd August 1938.

No. 5684-L.—The following Bill, which it is proposed to introduce in the Orissa Legislative Assembly, is hereby published under rule 70 of the Orissa Legislative Assembly Rules, 1937, for general information.

This cancels notification no. 4948-L., dated the 22nd July 1938, published in the extraordinary issue of the *Orissa Gazette*, dated the 25th July 1938.

**THE ORISSA MONEY-LENDERS
BILL, 1938.**

**A
BILL**

TO REGULATE MONEY-LENDING TRANSACTIONS AND TO GRANT RELIEF TO DEBTORS IN THE PROVINCE OF ORISSA.

Preamble.

WHEREAS it is expedient to regulate money-lending transactions and to grant relief to debtors in the Province of Orissa;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title,
extent and
commencement.

1. (1) This Act may be called the Orissa Money-Lenders Act, 1938.

(2) It extends to the whole of the Province of Orissa.

(3) All or any of the provisions of this Act shall come into force throughout the whole or any part of the Province on such date or dates as the Governor may, by notification, appoint, and different dates may be so appointed for different provisions and different areas.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "bank" means a company carrying on the business of banking and—

(i) registered under any of the enactments relating to companies for the time being in force in the United Kingdom

or in any of the British Dominions, or in any of the Colonies or Dependencies, of the United Kingdom, or in British India, or in any State in India, or

- (ii) incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislature ;
- (b) "business of money-lending" means the business of advancing loans ;
- (c) "capital" means that which a money-lender invests in the business of money-lending whether in money or in kind ;
- (a) "Company" means a company—
 - (i) registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the British Dominions, or in any of the Colonies or Dependencies of the United Kingdom, or in British India, or in any State in India, or
 - (ii) incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by an Act of the Indian Legislature,and includes a life insurance company to which the Insurance Act, 1938, will apply ;
- (e) "co-operative society" means a society registered or deemed to have been registered under the Bihar and Orissa Co-operative Societies Act, 1935, the

Madras Co-operative Societies Act, 1932, or any Act of any other Provincial Legislature relating to such societies;

- (f) "Court" includes a court acting in the exercise of insolvency jurisdiction;
- (g) "decree" means a decree as defined by the Code of Civil Procedure, 1908;
- (h) "interest" means rate of interest and includes the return to be made over and above what was actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise;
- (i) "loan" means an advance whether of money or in kind on interest made by a money-lender and shall include a transaction on a document bearing interest executed in respect of past liability and any transaction which, in substance, is a loan, but shall not include—
- (1) a loan advanced by the Provincial Government or by any local body authorised by the Provincial Government or by a co-operative society,
 - (2) a deposit of money in a Post Office Savings Bank or a deposit of money or other property in any other Bank B. & O. Act VI of 1935. or in a company or with a co-operative society;

Explanation.—(1) A bond bearing interest executed in respect of goods taken on credit constitutes a loan.

(2) A supply of goods on credit is not a loan.

(j) "money-lender" means—

(1) except in sections 9 to 15, a person who advances a loan in the regular course of business of money-lending with a capital of more than a sum of rupees one thousand, and

(2) in sections 9 to 15, a person who advances a loan in the regular course of business of money-lending irrespective of the amount of capital invested in the said business ;

and in both cases of (1) and (2) shall include a Hindu undivided family and the legal representatives and successors and successors-in-interest, whether by inheritance, assignment or otherwise, of such a person who advances a loan ;

(k) "prescribed" means prescribed by rules made under this Act ;

(l) "principal" means in relation to a loan the amount actually lent to the debtor ;

(m) "registered money-lender" means a person to whom a registration certificate has been granted under section 5, and shall include a Hindu undivided family and the legal representatives and successors-in-interest, whether by inheritance, assignment or otherwise, of a registered money-lender ;

(n) "rules" means rules made under this Act ;

(o) "secured loan" means a loan for which the money-lender holds a mortgage, charge, lien, or pledge

on the property of the debtor or any part thereof as a security for that loan;

(p) "Sub-Registrar" means a Sub-Registrar appointed under the Indian Registration Act, 1908;

(q) "suit" includes any proceeding taken for the recovery of a loan before the Registrar, or any person exercising the powers of the Registrar or deciding a dispute, or a liquidator or an arbitrator under the Bihar and Orissa Co-operative Societies Act, 1935, and also includes an appeal; and

(r) "unsecured loan" means any loan other than a secured loan.

Power of Provincial Government to exempt any money-lender or class of money-lenders or any class of loans from provisions of this Act.

3. The Provincial Government may, by notification for any special reason or reasons to be stated in such notification, exempt any money-lender or class of money-lenders or any class of loans in the whole or any part of the province of Orissa from the operation of all or any of the provisions of this Act.

CHAPTER II.

REGISTRATION OF MONEY-LENDERS AND ACCOUNTS TO BE KEPT BY MONEY-LENDERS.

Register of money-lenders.

4. (1) Every Sub-Registrar shall maintain a register of money-lenders in such form and containing such particulars as may be prescribed.

(2) Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872.

X of 1872.

✓
Registration
of money-lenders
and registration
fee.

••
5. (1) Any person may make an application to be registered as a money-lender. Every such application shall be in writing and shall state—

- (a) the name and address of the applicant;
- (b) the name and style under which he carried on or desires to carry on business as a money-lender;
- (c) the principal place of his business and the branches thereof, if any;
- (d) whether any certificate of registration previously granted to him under this Act has been cancelled; and
- (e) such other particulars as may be prescribed.

(2) (a) Every application made under sub-section (1) shall be accompanied by the prescribed registration fee and shall be presented to the Sub-Registrar within whose jurisdiction the principal place of business referred to in clause (c) of sub-section (1) is situate.

(b) Any such application, which is not accompanied by the prescribed registration fee or does not contain the particulars specified in sub-section (1), shall be summarily rejected.

✓
(3) The Provincial Government may by rules prescribe for different classes of money-lenders and for different areas a registration fee not exceeding twenty-five rupees to be paid by an applicant for registration:

Provided that the Governor may, by notification, exempt any person or class of persons from the payment of the registration fee either generally or in any specified area.

✓ (4) On receipt of an application under clause (a) of sub-section (2) the Sub-Registrar shall, except where a certificate previously granted to the applicant has been cancelled under section 18 and the order of cancellation is in force, grant a registration certificate in the prescribed form to the applicant.

Duration of registration certificate.

✓ 6. A registration certificate granted under section 5 shall, unless sooner cancelled under section 18, be in force for ten years from the date on which it is granted.

Duty of registered money-lender to maintain accounts and to give receipts.

7. Every registered money-lender shall in respect of every loan advanced by him after the commencement of this Act and every transaction made by him after the commencement of this Act relating to any loan advanced by him before the commencement of this Act—

(a) regularly record and maintain, or cause to be recorded or maintained, an account showing for each debtor—

(i) the date of the loan, the amount of the principal of the loan and the rate per cent per annum of interest charged on the loan;

(ii) the amount of every payment received by the money-lender in respect of the loan, and the date of such payment; and

(iii) any other terms which may be agreed on between the money-lender and the debtor;

(b) give to the debtor, or his agent, a receipt for every sum paid by,

or on behalf of, the debtor, duly signed and, if necessary, stamped at the time of such payment; or, within a reasonable time after it. The money-lender shall also, on demand, permit the debtor or his agent to endorse such payment on the document, if any, evidencing the loan.

- (c) give to the debtor a signed receipt for every pawned article with its general description, immediately after it is pawned, mentioning the amount for which it is pawned, the rate of interest charged per cent per annum and other particulars as may be prescribed.

CHAPTER III.

PROVISIONS RELATING TO SUITS IN RESPECT OF LOANS AND EXECUTION OF DECREES.

Suit for recovery of loan only maintainable by registered money-lenders.

8. A money-lender shall not be entitled to institute a suit for the recovery of a loan advanced by him after the date on which this section comes into force unless he was registered under this Act at the time when such loan was advanced:

Provided that a money-lender shall be entitled to institute a suit to recover a loan advanced by him at any time before the expiration of a year after the date on which this section comes into force, if he is granted a certificate of registration under section 5 at any time before the expiration of the said year.

Maximum rates at which interest may be decreed

9. Notwithstanding anything to the contrary contained in any other law or in anything having the force of law or in any contract, no Court shall, in any suit brought by a money-lender in respect of a loan advanced after the commencement

✓ of this Act, pass a decree for interest at rates exceeding 9 per centum per annum in the case of a secured loan and 12 per centum per annum in the case of an unsecured loan.

Maximum amount of interest which may be decreed.

10. Notwithstanding anything to the contrary contained in any other law or in anything having the force of law or in any contract, no Court shall, in any suit brought by a money-lender in respect of a loan advanced before or after the commencement of this Act, pass a decree for an amount of interest for the period preceding the institution of the suit which, together with any amount already realised as interest through Court or otherwise, is greater than the amount of the loan advanced or if the loan is based on a document, the amount of loan mentioned in the document on which the suit is based.

Power of Court to reopen certain transactions.

11. (1) In any suit brought by a money-lender in respect of loan advanced before the commencement of this Act, the Court may exercise all or any of the following powers:—

(i) reopen the transaction, take an account between the parties, and relieve the debtor of all liability in respect of any interest, in excess of nine per centum simple per annum in the case of a secured loan and twelve per centum simple per annum in the case of an unsecured loan;

(ii) notwithstanding any agreement purporting to close previous dealings and to create a new obligation, reopen any account already taken between them and relieve the debtor of all liability

in respect of any interest, in excess of nine per centum simple per annum in the case of a secured loan and twelve per centum simple per annum in the case of an unsecured loan ;

(ii) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any loan, and, if the money-lender has parted with the security, order him to indemnify the debtor in such manner and to such extent as it may deem just:

Provided that, in the exercise of these powers, the Court shall not—

* * * *

reopen any agreement purporting to close previous dealings and to create a new obligation which has been entered into by the parties or any persons from whom they claim at a date more than twelve years from the date of the transaction.

Provided further that nothing contained in sub-section (1) shall be deemed to require the creditor to refund any sum which has been paid to him.

(2) Where a decree passed by a Court on the basis of a loan on 1st April 1936 or after and not before it remains unsatisfied in whole or in part on the date on which this Act comes into force, the Court which passed the decree may, on the application of the judgment-debtor, exercise all or any of the powers specified in sub-section (1).

Decree may order payment of amount due on mortgage by instalments.

12. Notwithstanding anything to the contrary contained in any other law or in anything having the force of law or

in any contract between the money-lender and the person to whom the loan was advanced, the Court may at the time of passing the decree in any suit relating to a mortgage by which any loan is secured, order that payment of any amount decreed in such suit shall, subject to such conditions as the Court may impose be made by instalments:

Provided that before fixing the instalments the Court shall take into consideration the repaying capacity of judgment-debtor and shall satisfy itself that the judgment-debtor is in a position to pay the instalments on the due dates.

Power to direct payment of amount due in respect of a loan or on mortgage by instalments.

*James
Revised*

13. Notwithstanding anything to the contrary contained in any other law or in anything having the force of law or in any contract between the money-lender and the person to whom the loan was advanced, the Court may, at any time, on the application of a judgment-debtor, after notice to the decree-holder, direct that the amount of any decree passed before or after the commencement of this Act, in respect of a loan, including any decree in a suit relating to a mortgage by which a loan is secured, shall be paid in such number of instalments and subject to such conditions on the dates fixed by it as, having regard to the circumstances of the judgment-debtor and the amount of the decree it considers fit.

Court to estimate the value of judgment-debtor's property.

14. (1) When an application is made for the execution of a decree passed in respect of a loan or the interest on a loan by the sale of the judgment-debtor's property, the Court executing the decree shall notwithstanding anything to the contrary contained in any other law or in anything having the force of law, hear the parties to the decree and estimate as prescribed the value of such property

and of that portion of such property the proceeds of the sale of which it considers will be sufficient to satisfy the decree :

Provided that the Court may order the whole property of the judgment-debtor to be sold if it is satisfied that by reason of the nature of such property or any other special circumstances such property cannot reasonably or conveniently be sold in part.

(2) Any person aggrieved by an order passed under sub-section (1) may appeal to the court to which appeals from the court executing the decree ordinarily lie.

Only sufficient portion of judgment-debtor's property to be sold.

15. Notwithstanding anything to the contrary contained in any other law or in anything having the force of law, the proclamation of the intended sale of property in execution of a decree passed in respect of a loan or the interest on a loan shall include only so much of the property of the judgment-debtor, the proceeds of the sale of which the Court considers will be sufficient to satisfy the decree, and such property shall not be sold at a price lower than the price specified in the said proclamation :

Provided that if the property to be sold is immovable property and the decree-holder specifies which portion of such property should be sold, the Court shall order that such portion or so much of such portion as may seem necessary to satisfy the decree shall be sold :

Provided further that if the highest amount bid for the property included in the sale proclamation is less than the price specified for such property in the proclamation, the Court may sell the property for such highest amount, if the decree-holder consents in writing to forego so

much of the amount decreed as is equal to the difference between the highest amount bid and the price specified for such property in the sale proclamation.

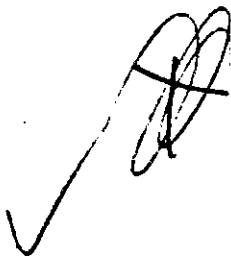
16. The provisions of sections 10 to 15 shall apply—

(i) to suits brought by money-lenders in respect of loans advanced before the commencement of this Act, and pending on the date on which the said sections come into force; and

(ii) to appeals and proceedings in execution arising out of suits brought by money-lenders in respect of loans advanced before the commencement of the said Act, whether such appeals or proceedings in execution were pending on, or instituted after, the date on which the said sections come into force.

17. Notwithstanding anything to the contrary contained in any other law or anything having the force of law or in any contract, a usufructuary mortgage, which comes into existence after the commencement of this Act, shall, unless discharged previously, be deemed to stand discharged after the expiration of fifteen years from the date of the mortgage and the mortgagee shall deliver up to the mortgagor all documents in his possession or power relating to the mortgaged property and shall, if so required, retransfer the property to the mortgagor at his cost free from the mortgage and from all encumbrances created by him or those claiming under him and shall also put the mortgagor in possession of the property.

*Successor
Mortgagee*



CHAPTER IV.

PENALTIES AND PROCEDURE.

Power of Collector to cancel registration certificate.

18. (1) Where in any suit brought in respect of a loan by a registered money-lender, or in respect of any security taken for a loan by a registered money-lender, the Court is of opinion that the registered money-lender has been guilty of fraud, or is otherwise unfit to carry on the business of money-lending, the Court shall make a report to the Collector, and the Collector may, on receipt of such report and after a due and proper enquiry, cancel for such period, not exceeding five years as he thinks fit the registration certificate granted to the money-lender.

(2) When the certificate of a registered money-lender has been cancelled under sub-section (1) such money-lender shall not be entitled to make any application under section 5 during the period in which such order of cancellation remains in force; but such cancellation shall not preclude the money-lender from instituting suits in respect of loans advanced by him before the date of the order of such cancellation.

Penalty for contravention of the provisions of section 7.

19. (1) If any money-lender or his agent wilfully contravenes any of the provisions of clause (a) of section 7, such money-lender or agent, as the case may be, shall be punishable with fine not exceeding five hundred rupees.

(2) Any money-lender who contravenes any of the provisions of clause (a) or clause (b) of section 7 shall be punishable with fine not exceeding five hundred rupees.

Penalty for taking premium.

20. If after the commencement of this Act, any money-lender or his agent takes from a debtor at the time of advancing a loan or deducts out of the principal of such loan any premium or other exactions

of a similar nature by whatever name called or known, such money-lender or his agent, as the case may be, shall be punishable with fine, not exceeding twice the amount of such premium or exaction.

CHAPTER V.

MISCELLANEOUS.

Powers of Court under the Usurious Loans Act, 1918, not affected by this Act.

21. Save as otherwise provided in section 11 nothing in this Act shall affect the powers of a Court under the Usurious Loans Act, 1918.

X of 1918.

Contract for payment outside the province void.

22. Notwithstanding anything to the contrary contained in any other law or in anything having the force of law, any contract entered into between a money-lender and his debtor in respect of a loan advanced after the commencement of this Act providing for the payment of the amount due on such loan at any place outside the province of Orissa shall be void.

Power to deposit in Court money due on loan.

23. (1) When a debtor tenders to a money-lender or his agent money on account of any interest due on a loan or on account of a principal of a loan and the money-lender or his agent refuses to receive the amount tendered or refuses to grant a receipt for the same, the debtor may deposit, in any Court in which the money-lender might have instituted a suit for the recovery of such interest or such loan, to the account of the money-lender the amount tendered as aforesaid.

(2) The Court shall thereupon forthwith grant a receipt for the deposit under the seal of the Court and cause a written notice of the deposit to be served upon the money-lender.

(3) The money-lender may at any time within three years after the date of the service upon him of the notice

mentioned in sub-section (2) make an application to the Court praying for the amount deposited as aforesaid to be paid to him.

(4) If no application is made under sub-section (3) within the period mentioned in the said sub-section, the amount deposited shall be disposed of in the prescribed manner.

(5) Upon receipt of an application under sub-section (3) the Court may order such amount to be paid to the applicant upon such terms and subject to such conditions as may be specified in the order.

Court's receipt to operate as acquittance.

24. A receipt given by the Court under sub-section (2) of section 23 shall operate as an acquittance for the amount deposited as aforesaid in the same manner and to the same extent as if that amount had been received by the money-lender to whose credit the deposit was made, on the date of such deposit.

Restriction on repayment void.

25. A debtor may repay the whole or any part of the principal or interest due under a loan to the money-lender at any time and in any manner and any agreement between a money-lender and a debtor to the contrary imposing restrictions on the freedom of repayment shall be illegal and void.

Explanation.—An agreement entered into by a debtor prohibiting, either absolutely or conditionally, repayment of the principal or interest due under a loan until after the expiry of a certain period of time shall be void.

Payment of loan advanced on a registered document in the presence of the Sub-Registrar.

26. Where a loan is advanced on a registered document, the entire amount of the loan, or as much of it as may be payable in cash, shall be paid to the debtor or his duly authorised agent in the presence of the Sub-Registrar who will

register the document and the said Sub-Registrar shall make an endorsement to that effect on the document.

Power to make rules.

27. (1) The Provincial Government may make rules for the purpose of carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Provincial Government may make rules—

- (a) prescribing the form of the register mentioned in sub-section (1) of section 4 and the particulars to be contained in such a register;
- (b) prescribing the form of the registration certificate mentioned in sub-section (1) of section 5;
- (c) prescribing the particulars to be contained in an application made under sub-section (1) of section 5;
- (d) prescribing the registration fee to be paid on the applications made under sub-section (1) of section 5;
- (e) regulating the levy of compound interest in respect of loans and the rates thereof;
- (f) providing for and regulating the supply of copies of the account mentioned in clause (a) of section 7;
- (g) providing for and regulating the grant of periodical statements of account to a debtor signed by the money-lender or his agent showing the balance or amount that might be outstanding against such debtor on

account of the principal and interest at the time of furnishing the said statement and the amount of every payment received by the money-lender in respect of the loan and the date of such payment during the period to which the statement relates;

- (h) prescribing the particulars to be contained in a plaint in a suit by a money-lender as defined in clause (1) or clause (2) of sub-section (j) of section 2;
- (i) for estimating the value of the property under section 14; and
- (j) the manner in which deposits made under sub-section (4) of section 23 shall be disposed of.

28. The Madras Debtors' Protection Act, 1934, the Usurious Loans (Central Provinces Amendment) Act, 1934, and the Central Provinces Money-lenders Act, 1934, and section 3 of the Agency Tracts Interest and Land Transfer Act, 1917, in their application to the Province of Orissa, are hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

There is at present no legal enactment regulating the business of money-lending in Orissa. Very high rates of interest are current in the province, and the Usurious Loans Act, 1918, which controls certain aspects of the transactions of money-lenders, does not give adequate relief to debtors. The need for legislation is felt to be urgent to give some more relief to the large number of people who are at present compelled to pay exorbitant rates of interest. This Bill is intended to ensure that money-lenders register themselves, maintain proper accounts and charge only reasonable rates of interest. It is based on a similar measure introduced in the Bihar Legislative Assembly.

B. N. DAS,

Member-in-charge.

CUTTACK: 23rd August 1938.

C. G. NAIR,

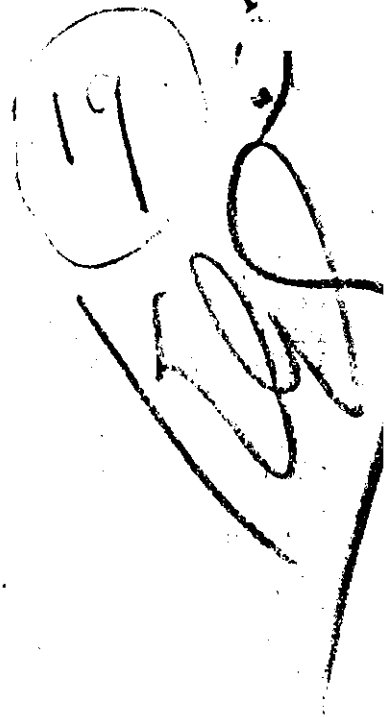
Secretary to Government.

Published by order of His Excellency the Governor.

C. G. NAIR,

Secretary, Law and Commerce Department.

X9(U):G:(Z235).N386
98



Government Gazette

EXTRAORDINARY

NORTH-WEST FRONTIER PROVINCE

Published by Authority

PESHAWAR, FRIDAY, THE 11TH NOVEMBER 1938

LEGISLATIVE ASSEMBLY.

NOTIFICATION.

11th November 1938.

No. 3312-L. A.—The following report of the Select Committee on the North-West Frontier Province Agriculturists Debtors' Relief Bill together with the Bill as introduced and amended is published under Rule 74 of the North-West Frontier Province Legislative Assembly Rules.

By order etc.,

HIDAYATULLAH,

Secretary,

N.-W. F. P. Legislative Assembly.

**REPORT OF
THE SELECT COMMITTEE ON THE NORTH-WEST
FRONTIER PROVINCE AGRICULTURIST DEBTORS'
RELIEF BILL, 1938.**

We, the members of the Select Committee to which the North-West Frontier Province Agriculturist Debtors' Relief Bill was referred have the honour to submit this our Report.

The Committee held its first meeting at the Assembly Hall on the 3rd November 1938 at 4 p. m. when all the members except Khan Sahib Malik-ur-Rahman, Khan, Samin Jan and Sardar Ajit Singh were present.

The second meeting was held at 3 p. m. on the 4th November when all the members except Khan Sahib Malik-ur-Rahman were present. The Committee met again at 7 p. m. the same day when the following members were present :—

The Hon'ble Minister for Education
(Chairman),

Mr. Abdur Rab Khan Nishtar, —

Sardar Muhammad Aurangzeb
Khan,

Dr. C. C. Ghosh,

L. Tek Chand Dhingra,

Mian Jaffer Shah,

Advocate-General, and

Khan Sahib Abdul Majid Khan.

The fourth meeting was held at 11-30 a. m. on the 5th November when all members except Khan Samin Jan were present.

The Committee agreed to the following additions and alterations in the Bill.

I. In clause 1, sub-clause (1) the letter "s" with the apostrophe at the end of the word "agriculturists" should be deleted and an apostrophe inserted after the word "debtors".

2. In clause 2, item (i) the words "whose main source of livelihood is income derived from agriculture or horticulture" should be deleted and the following be substituted therefor :—

"who holds land as either proprietor, under-proprietor, occupancy tenant, tenant-at-will, lessee, mortgagee, or is holding any other interest in land."

3. The following should be added as Explanation I to clause 2.

"EXPLANATION I.—When the land of an agriculturist is assessed to fluctuating land revenue the annual land revenue for the purpose of this section shall be

computed at the average of the land revenue so assessed during the three years immediately preceding the date of the institution of the suit."

4. The existing Explanation I should be renumbered as Explanation II.

5. In the first proviso to Explanation II as renumbered, line 3, the words "of the value of Rs. 500 or more" should be deleted and the following substituted therefor :—

"capable of yielding not less than Rs. 600 annual income."

6. In the second proviso to the same Explanation, line 2, the words "ending the 31st March 1938 been" should be deleted and the following substituted therefor :—

"immediately preceding the institution of the suit."

7. The explanation appearing after this proviso should be deleted.

8. The following should be added to item (ii) of clause 2 at the end :—

"and shall include any transaction which the Court finds to be in substance a debt and shall also include a loan."

9. Item (iv) of clause 2 should be deleted.

10. Items (v) and (vi) should be renumbered as items (iv) and (v) respectively.

11. The renumbered item (iv) should be substituted by the following :—

" 'money-lender' means a person or firm carrying on the business of advancing loans as defined in this Act and shall include the legal representatives and the successors, in interest whether by inheritance or otherwise of such person or firm. "

12. Item (v) as renumbered should be substituted by the following :—

" 'pawn-broker' means a money-lender who advances loans on the security of moveables "

13. The following should be added as item (vi) to clause 2 :—

" 'Collector' means a Collector or the District or such other officer

not below the rank of an Assistant Collector of the first grade as may be specially empowered by the Provincial Government to discharge the functions of a Collector for the purposes of this Act."

14. In clause 3, line 1 the words "and liabilities of an agriculturist" should be deleted.

15. Item (d) of clause 3 should be deleted and the following substituted therefor:—

"any liability in respect of the rent due to a Waqf or to any other religious or charitable institution."

16. In item (e) misprinted as (d) line 3 the word "Punjab" and the words "as applied to the North-West Frontier Province" in line 4 should be deleted.

17. In item (g) the following should be inserted between the word 'trust' and the punctuation mark semi-colon:—

"provided that no transaction which carries interest shall be considered as a trust".

18. In the proviso after item (h) of clause 3, line 1 the word "clause" should be changed into "clauses" and the words and brackets and the letter "and (f)" should be inserted after "(e)".

19. In sub-clause (3) of clause 4, line 4, the words "rupees two" should be substituted by the words "a rupee".

20. Sub-clause (4) of clause 4 should be deleted.

21. Sub-clauses (5), (6), (7), and (8) should be renumbered as (4), (5), (6), and (7) respectively.

22. In the renumbered sub-clause (4), line 4 the word "price" should be substituted by the word "amount".

23. Sub-clause (7) as renumbered of clause 4 should be deleted.

24. The following should be added as clause 5:—

"5. Every money-lender and pawn-broker may apply to the Collector for a licence which shall be granted for such period, in such form, and on such conditions, and on payment of such fees, as may be prescribed.

EXPLANATION.—When an application for the renewal of a license has been received from a licensed money-lender

or pawn-broker before the expiry of his licence, the existing licence shall be deemed to continue in force until orders on the application have been issued."

25. The following should be added as clause 6, clause 7, clause 8, clause 9, clause 10, clause 11, and clause 12:—

"6. A licence may be cancelled by the Collector and shall not be renewed for such period as may be specified by him if after the commencement of this Act a money-lender or pawn-broker commits an act or is guilty of an omission with reference to which he—

- (i) has been held by a court to have contravened the provisions of Section 3 of the North-West Frontier Province Regulation of Accounts Act, 1935, in more than two suits;
- (ii) has had his suit dismissed with a finding that he has made dishonestly or fraudulently a material alteration in any document relating to a loan;
- (iii) has had his suit dismissed with a finding that it is fraudulent;
- (iv) has been found guilty by a court of forgery or cheating in respect of a money transaction:

Provided that the Collector shall not cancel a licence until the prescribed period of appeal, revision or review, as the case may be, has expired; or in case of appeal, revision or review the appeal, revision or review has been finally decided.

7. (1) The Collector may take proceedings *suo motu* or on the application of any person interested for the cancellation of a money-lender's or a pawn-broker's licence:

Provided that no licence shall be cancelled without giving the money-lender or pawn-broker a notice in such form as may be prescribed.

(2) The Collector may during the period of limitation for an appeal, either of his own motion or on the application of a party interested, review his own order, provided no appeal is pending with the Revenue and Divisional Commissioner.

8. The name of a money-lender or pawn-broker whose license has been cancelled under Section 6 shall be struck off the register maintained at the office of the Collector for the registration of money-lenders and pawn-brokers:

Provided that a license shall not be deemed to be cancelled nor the name of the money-lender or the pawn-broker deemed to be struck off the register during the period an appeal or an application for review or an application under Section 10 is pending.

" 9. A money-lender or pawn-broker may, after the termination of the period for which his license has been cancelled, apply for registration and for the grant of a license to the Collector who shall on his furnishing such particulars as may be prescribed, register his name on payment of a fee of one rupee; and shall grant him a license for such period, in such form and subject to such conditions and on payment of such fees as may be prescribed.

" 10. (1) An appeal shall lie to the Revenue and Divisional Commissioner, against the order of the Collector under Section 6 cancelling a license provided that the appeal shall be instituted within 30 days of the order appealed against, the period requisite for obtaining copies of such order being excluded.

(2) If the money-lender, pawn-broker or the appellant is not present at the time of announcement of the original or the appellate order, as the case may be, the order shall be communicated to him in such manner as may be prescribed.

(3) The Revenue and Divisional Commissioner may, in dismissing an appeal grant to the money-lender or pawn-broker a certificate specifying the loans in respect of which a suit may be instituted by him or the decree in respect of which an application for execution may be presented.

(4) A money-lender or pawn-broker without appealing against an order of the Collector under Section 6 may within 30 days of the Collector's order cancelling his license apply to the Revenue and Divisional Commissioner for a certificate of the nature specified in sub-clause (3).

(5) The Revenue and Divisional Commissioner may, either on his own motion or on the application of a party interested review his own order at any time within 30 days of the communication of his appellate order to the money-lender or pawn-broker concerned.

" 11. Notwithstanding anything contained in any other enactment for the time being in force a suit by a money-lender or pawn-broker for the recovery of a loan, or an application by a money-lender for the execution of a decree relating to a loan, shall, after the commencement of this Act, be dismissed,

unless the money-lender or pawn-broker—

- (a) at the time of the institution of the suit or presentation of the application for execution or
- (b) at the time of decreeing the suit or deciding the application for execution—
 - (i) is registered; and
 - (ii) holds a valid license in such form and manner as may be prescribed; or
 - (iii) holds a certificate from the Revenue and Divisional Commissioner granted under Section 10, specifying the loan in respect of which the suit is instituted or the decree in respect of which the application for execution is presented; or
 - (iv) if he is not already a registered and licensed money-lender or pawn-broker, satisfies the Court that he has applied to the Collector to be registered and licensed and that such application is pending provided that in such a case the suit or the application shall not be finally disposed of until the application of the money-lender or pawn-broker for registration and grant of license pending before the Collector is finally disposed of.

" 12. Nothing in this Act shall apply to suits or applications for execution pending—

- (a) at the time of the commencement of this Act; or
- (b) on the date of the cancellation of the license of the money-lender or pawn-broker if before his current license is granted, or renewed, a Court has not given in any suit finding as would render him liable to have his license cancelled under the provisions of Section 6 of this Act."

26. Clause 5 should be renumbered as 13.

27. The proviso to sub-clause (1) of clause 13 as renumbered should be deleted.

28. The proviso to sub-clause (2) of clause 13 as renumbered should be

substituted by the following :—

“ Provided that nothing herein contained shall affect any mortgage whereby a mortgagor has delivered possession of the mortgaged property to the mortgagee and has authorised him to retain such possession and to receive rents and profits thereof, undertaking to redeem the mortgage either on the expiry of the period fixed by the contract of mortgage or custom or on demand according to the terms of the mortgage.”

29. Clause 6 should be renumbered as clause 14.

30. In clause 14 as renumbered, line 5, the figure “5” occurring after the word “Section” should be substituted by the figure “13”.

31. In the proviso to Section 14 as renumbered, line 8, the word “ninety” should be substituted by the words “one hundred and twenty”.

32. In the Saving clause of Section 14 as renumbered, line 1, the words “the foregoing” should be substituted by the word “this”.

33. Clause 7 should be renumbered as 15.

34. In the proviso to clause 15 as renumbered the figure “5” should be substituted by the figure “6”.

35. Clause 8 should be renumbered as 16 and the figure “6½” occurring therein should be substituted by the figure “6”.

36. The proviso to the renumbered clause 16 should be deleted.

37. Clause 9 should be renumbered as clause 17 and the figure “90” occurring in the second line thereof should be substituted by the figure “120”.

38. The title of clause 17 should be changed into :—

“Courts on application of judgment-debtors to apply the provisions of this Act.”

39. Clause 10 should be renumbered as clause 18.

40. In the renumbered clause 18 and in the proviso thereof the figure “9” occurring after the word “Section” should be substituted by the figure “17”.

41. In the proviso to clause 18, line 1, the word “sixty” should be substituted by the word “ninety”.

42. Clause 11 should be renumbered as 19.

43. Clause 12 should be renumbered as 20.

44. The following proviso should be added to clause 20 as renumbered :—

“ Provided that the landlord shall be entitled to realise from such tenant only the sums paid by him to the Government as land revenue or obiana or both in respect of the crops of which the rent has been remitted and the recovery whereof is not barred by the provisions of the law of Limitation.”

45. The following should be added as Explanation to clause 20 as renumbered :—

“EXPLANATION—The term ‘tenant-at-will’ or an occupancy tenant shall not include a lessee who has held or is holding land for a fixed term or from year to year under a contract or decree or order by a competent authority and is liable to pay a fixed sum in cash or kind or both as rent.”

46. Old clause 13 should be deleted, and clause 14 renumbered as clause 21.

The Bill was first published in the Gazette Extraordinary, dated the 1st March 1938. As it has undergone alterations which require its republication we direct that it be republished.

We recommend that the bill be passed.

(Sd.) QAZI ATTAULLAH,
(Chairman).

(Sd.) KHAN ABDUL GHAFUR
KHAN.

(Sd.) PIR BAKHSH
(subject to minute of dissent).

(Sd.) C. C. GHOSH
(subject to minute of dissent).

(Sd.) ABDUR RAB NISHTAR
(subject to minute of dissent).

(Sd.) JAFFAR SHAH
(subject to minute of dissent).

(Sd.) MALIK-UR-RAHMAN
KAYANI.

(Sd.) SAMIN JAN.

(Sd.) TEK CHAND DHINGRA
(subject to minute of dissent).

(Sd.) MUHAMMAD AURANG-
ZEB
(subject to minute of dissent).

(Sd.) ABDUL MAJID KHAN
(subject to minute of dissent).

(Sd.) RATA SINGH

Reasons for the alterations made in the Bill.

1. We have altered some of the definitions with a view to make them more precise so as to avoid ambiguity and misinterpretation.

2. The Bill as it stands makes no provision with respect to fluctuating land revenue. We have therefore added a subclause to fill in this omission.

3. We have raised the limitation mentioned in the proviso to explanation No. 1 to clause 2 of the Bill as introduced in order to remove the hardship that would be caused by the present limitation to persons such as are mentioned in it.

4. We have added some new sections with a view to discourage fraudulent dealings by dishonest money-lenders and pawn-brokers.

5. Having regard to the illiteracy of the agriculturists and the lack of communication in remote villages it was deemed necessary that the period of 90 days specified in clause 9 of the

original Bill should be raised to 120 days so that the agriculturists may avail themselves of the provisions of the Bill and make applications to the Court in time.

6. Having regard to the fact that rent is not the same thing as interest and the landlords have already paid land revenue and abiana to the Government it was deemed cruel to wipe out their rents without making corresponding provisions for the payments that they have already made. We have therefore added a proviso to Section 12 of the original Bill to mitigate the hardship of the landlords in this matter.

An explanation has been added to this section with a view to further clarify the provisions thereof.

7. As the landlords are generally illiterate and as it is difficult especially in the Batai system to issue receipts Section 13 of the original Bill has been deleted.

MINUTES OF DISSENT.**Introduction—**

The Bill appears to have been framed not so much with the idea of benefiting the small cultivator or of safeguarding agricultural interests of the Province as of declaring a moratorium of private debts and rents and of making further money-lending operations more difficult. The question is whether this measure will actually benefit the small cultivator. The Legislators think that the money-lender is mainly responsible for the chronic state of indebtedness of the cultivator. But the actual fact is that the poor cultivator holding a small plot of land cannot balance his budget and earn enough to support his family. He can never remain out of debt unless he and his family add some other occupation to that of agriculture.

It is true that in a Socialistic State which must remain Utopia for generations to come, there would be no money-lending whether by banks or by private individuals but we have to adjust ourselves to conditions as they exist today.

Money-lending, as pointed out by the Hon'ble the Additional Judicial Commissioner, North-West Frontier Province, on page 39 of Opinions on the Bill in question has been in existence all the time that the human race has existed. Islam the greatest opponent of usury has also recognised money-lending. Of course in society, as it was constituted under the Islamic Law, money was lent free of any interest and was paid back for certain. The very construction of human society is such that some must lend and others must borrow. The agriculturists in particular are always in dire need of money and if I have been informed rightly banks and other societies are so shackled by their rules that the agriculturist cannot get money at once when he urgently asks for it from those institutions.

The same legal authority further says "The money-lender has therefore to exist and without him perhaps the agriculturist will suffer a lot, for when he wants money for the burial of his son or for buying seed when rain come on, or for expenses when his relation or he himself is suddenly involved in a murder case, it is the money-lender only who can give the money at a moment's notice".

At present there is no law which ensures repayment of money advanced; rather the law allows the debtor loopholes to avoid that payment. If the present measure which too fails to make

of the capital which the money-lenders as citizens of the Province have a right to possess, is enacted, the result would be that the money-lender would refuse to lend. The poor agriculturist would then have but one and the only one course left to him, that is to dispose of his land to a big landlord of his class at a nominal price with the result that he would very soon become a mere tenant, instead of a village landholder. We therefore, hold that all such loans as arise out of legal necessity might be excluded from the purview of this Bill.

Unfair restrictions that the Bill imposes on dealings between the agriculturists and the money-lenders also require to be removed as these cut at the very root of the credit system without which no class and no industry can develop. In support of my contention we give below an extract from the opinion of another learned judge, I. M. Lall, Esqr., I. C. S. On page 43 of the report he says "It might be said that money-lenders are registered in England and there should be no objection to their registration in this country. That is the prevailing view but people who hold such a view forget that things in England are not the same as they are in this country. Credit is in a primitive condition in this country; in England it is fully developed. In this country even in a town of a normal size it would be a surprise to find a bank. In England there would be many banks of reasonable size. In India therefore a private banker is a great necessity, whether in a town or in a village as he takes the place of a bank."

Agricultural Banks and Co-operative Credit Societies can not meet the needs of the cultivator and the only institution on which he could rely is being eliminated by the measure under consideration.

We, therefore, suggest the following amendments to the Bill :—

Preamble—

The word "Agriculturists" be deleted and word "Peasant" be substituted.

CHAPTER I.**Short title, extent and commencement—**

The words "Agriculturists' Debtors Relief Act, 1938 in 1(1)" be deleted and "Peasants' Debts Relief Act, 1938" be substituted.

1 (3) be deleted and the following be substituted :—

It shall come into force at such time and within such area as the Government from time

Definition—

- 2 (i) be deleted and the following be substituted :—

Peasant means a person who actually cultivates the soil or whose main source of livelihood is income derived from agriculture or horticulture and whose land is not assessed to more than (a) Rs. 100 annual land revenue in case of Nehri Awal and (b) Rs. 50 in any other case.

Explanation—

Substitute the word "Peasant" for the word "Agriculturist" wherever it occurs, and Rs. 100 and Rs. 50 for Rs. 500 and Rs. 250 respectively wherever they occur.

In line 10 add "or Notified Area Committee" after Cantonment.

Explanation—

(II) Delete all the words after the word "from" and substitute "A peasant except as regards adjudication made before the commencement of the Act."

(iv) Add the following after the word "advance and before the word to :—

"To a peasant which is not a legal necessity."

Add explanation to (iv) Legal necessity means and includes the following :—

- (1) Payment of Government revenue and rent of land.
- (2) Maintenance of one's self, of sons, daughters, sisters, brothers, wife, mother and father.
- (3) Marriage expenses of one's self, sons, daughters, sisters, brothers.
- (4) Performance of necessary funeral expenses of ascendants, descendants, brothers, sisters and other near relations.
- (5) Costs of necessary litigation for recovering or preserving the property of one's self, ascendants, descendants, brothers and sisters.

Saving from the operation of the Act—

Add (i) in Section 3. " (i) Any liability incurred on account of legal necessity."

CHAPTER II.**Registration of money-lenders and pawn-brokers—**

4. Delete clauses 1, 2, 3, 4, 7 and 8, and maintain clauses 5 and 6 as 1 and 2 and add the following clause as 3 :—

"That if any money-lender or pawn-broker contravenes the provisions of this section, he shall be liable to have his interest cancelled at the discretion of the court if his action is mala fide."

CHAPTER III.**Rate of interest—**

5. Delete (2) and after (1) add following provisos—

If he gives a security in cash or personal to the satisfaction of the creditor to pay the amount declared to be due under (1).

The proviso of the above clause will not apply to a creditor who has paid money on behalf of the debtor to any creditor or his debt is a surety debt.

In Sections 6, 7, and 8 delete word "Agriculturists" and substitute it by "Peasants" wherever it occurs.

CHAPTER IV .

In Sections 9, 10, 11, 12, 13, delete the word "Agriculturist" and substitute the word Peasant.

CHAPTER V,

Section 14 to be deleted.

Statement of objects and reasons—

Delete the word "Agriculturist" and substitute the word "Peasant".

(Sd.) TEK CHAND DHINGRA.

(Sd.) C. C. GHOSH.

PESHAWAR :

10th November 1938.

MINUTE OF DISSENT

1. I am in favour of the total deletion of Proviso (1) to clause 2 (i). I do not agree with the report of the Select Committee.

2. Clause 4 (7) of the Bill lays down that the defaulter will be liable to a fine not exceeding Rs. 50. I do not agree with this. I suggest a fine of Rs. 1,000 and also that he will not be entitled to his claim, if any.

3. 1st October 1937 be deleted wherever it occurs in the Bill and the words "on the date of the enforcement of the Act" be substituted.

4. In clause 9 of the Bill I will suggest that the Courts should be given powers to act *suo motu*. Here too I do not agree with the report of the Select Committee.

5. In clause 11 (2) of the Bill I suggest that the word "successive" be inserted before the word "instalments".

6. I do not agree with the report of the Select Committee so far as it relates to clause 12 of the Bill. The amendment of the Committee will create further difficulties both for the tenant as well as the landlord without giving any relief to the tenant.

7. I am also not in favour of clause (13) as it stands.

(Sd.) PIR BAKHSH, M.L.A.

Peshawar :

8th November 1938.

MINUTE OF DISSENT.

I believe that it was essential that relief should also have been given to the people of urban areas and the scope of the Bill should have been enlarged as I suggested in the Select Committee.

I am also of opinion that the proposed rate of interest is higher than what it

should have been.

Sd. ABDUR RAB NISHTER, M.L.A.

Peshawar :

10th November 1938.

MINUTE OF DISSENT.

My minute of dissent about the North-West Frontier Province Agriculturist Debtors Relief Bill is—

In Section 2—

"whose land is assessed to more than—

(a) Rs. 500 annual land revenue in case of Nehri Awal and Nehri Doem ; and

(b) Rs. 250 in any other case" should be

"whose land is assessed to any amount of land revenue".

Sd.) MUHAMMAD AURANGAZEB

KHAN, M.L.A.

Peshawar :

8th November 1938.

**THE NORTH-WEST FRONTIER
PROVINCE AGRICULTURISTS
DEBTORS' RELIEF BILL, 193 .**

[As introduced in the North-West Frontier
Province Legislative Assembly.]

A
BILL

*to provide for the relief of indebted agricul-
turists in the North-West Frontier
Province.*

Preamble—

WHEREAS it is expedient to provide for the relief of indebted agriculturists in the North-West Frontier Province;

It is hereby enacted as follows:—

CHAPTER I.

Short title, extent and commencement—

1. (1) This Act may be called the North-West Frontier Province Agriculturists Debtors' Relief Act, 193 .

(2) It extends to the whole of the North-West Frontier Province.

(3) It shall come into force at once.

Definitions—

2. In this Act unless there is anything repugnant in the subject or context—

(i) " agriculturist " means a person whose main source of livelihood is income derived from agriculture or horticulture and whose land is not assessed to more than—

(a) Rs. 500 annual land revenue in case of Nehri Awal and Nehri Doem; and

(b) Rs. 250 in any other case.

Explanation.—When the land of a person is partly of the description mentioned in clause (a) and partly of the description mentioned in clause (b) then half of the annual land revenue assessed on the land of the former class will be added to the annual land revenue assessed on the land of the latter class, and if the sum total thereof does not exceed Rs. 500 he shall be considered an agriculturist within the meaning of this clause:

Provided that a person who owns house, other than his own residential house, or shop

**THE NORTH-WEST FRONTIER
PROVINCE AGRICULTURISTS
DEBTORS' RELIEF BILL, 193 .**

[As amended by the Select Committee.]

A
BILL

*to provide for the relief of indebted agricul-
turists in the North-West Frontier
Province.*

Preamble—

WHEREAS it is expedient to provide for the relief of indebted agriculturists in the North-West Frontier Province;

It is hereby enacted as follows:—

CHAPTER I.

Short title, extent and commencement—

1. (1) This Act may be called the North-West Frontier Province Agriculturists Debtors' Relief Act, 193 .

(2) It extends to the whole of the North-West Frontier Province.

(3) It shall come into force at once.

Definitions—

2. In this Act unless there is anything repugnant in the subject or context—

(i) " agriculturist " means a person who holds land as proprietor, under-proprietor, occupancy tenant, tenanti-at-will, lessee, mortgagee, or is holding any other interest in land and whose land is not assessed to more than—

(a) Rs. 500 annual land revenue in case of Nehri Awal and Nehri Doem; and

(b) Rs. 250 in any other case.

Explanation I.—When the land of an agriculturist is assessed to fluctuating land revenue the annual land revenue for the purpose of this section shall be computed at the average of the land revenue so assessed during the three years immediately preceding the date of the institution of the suit.

Explanation II.—When the land of a person is partly of the description mentioned in clause (a) and partly of the description mentioned in clause (b) then half of the annual land revenue assessed on the land of the former class will be added to the annual land revenue assessed on the land of the latter class, and if the sum total thereof does not exceed Rs. 500 he shall be considered an agriculturist within the meaning of this clause:

Provided that a person who owns house, other than his own residential house, or shop

property within municipal or cantonment limits of the value of Rs. 500 or more will not be considered an agriculturist.

Provided further that a person who has been in either of the two financial years ending 31st March 1938 been assessed to income tax under the Indian Income Tax Act, 1922, or under income tax laws of any Indian State will not be considered an agriculturist.

Explanation—“ whose land ” includes land held as proprietor, under-proprietor, occupancy tenant, tenant-at-will, lessee or mortgagee,

(ii) “ debt ” means any liability in cash or kind whether secured or unsecured due from an agriculturist whether payable under a decree or order of a civil or revenue court or otherwise,

(iii) “ interest ” means and includes the return to be made over and above what is actually lent whether the same is charged or sought to be recovered specifically by way of interest or in the form of service or otherwise,

(iv) “ loan ” means an advance to an agriculturist whether of money or in kind and includes any transaction which is deemed by a court to be in substance a loan,

(v) “ money-lender ” means a person who generally lends money on interest, and

(vi) “ pawn-broker ” means a person who mainly lives upon income derived from interest on loans advanced on the security of articles pawned.

Savings from the operation of the Act—

3. Nothing in this Act shall affect debts and liabilities of an agriculturist falling under the following heads:—

- (a) any revenue, tax or cess payable to the Provincial Government or any other sum due to them by way of loan or otherwise;
- (b) any revenue, tax or cess payable to the Central Government or any other sum due to them by way of loan or otherwise;
- (c) any tax or cess payable to any local authority or any other sum due to them by way of loan or otherwise;
- (d) any debt contracted on the security of house-property only in the municipality or cantonment;
- (e) any liability in respect of any sum due to any co-operative society, including a land mortgage bank, registered under the Punjab Co-operative Societies Act, 1912, as applied to the North-West Frontier Province;

property within municipal or cantonment limits capable of yielding not less than Rs. 600 annual income will not be considered an agriculturist.

Provided further that a person who has been, in either of the two financial years immediately preceding the institution of the suit, assessed to income tax under the Indian Income Tax Act, 1922, or under income tax laws of any Indian State will not be considered an agriculturist.

(ii) “ debt ” means any liability in cash or kind whether secured or unsecured due from an agriculturist whether payable under a decree or order of a civil or revenue court or otherwise, and shall include any transaction which the Court finds to be in substance a debt and shall also include a loan.

(iii) “ interest ” means and includes the return to be made over and above what is actually lent whether the same is charged or sought to be recovered specifically by way of interest or in the form of service or otherwise,

(iv) “ money-lender ” means a person or firm carrying on the business of advancing loans as defined in this Act and shall include the legal representatives and the successors in interest whether by inheritance or otherwise of such person or firm,

(v) “ Pawn-broker ” means a money-lender who advances loans on the security of moveables,

(vi) “ Collector ” means a Collector of the District or such other officer not below the rank of an Assistant Collector of the first grade as may be specially empowered by the Provincial Government to discharge the functions of a Collector for the purpose of this Act.

Savings from the operation of the Act—

3. Nothing in this Act shall affect debts falling under the following heads:—

- (a) any revenue, tax or cess payable to the Provincial Government or any other sum due to them by way of loan or otherwise;
- (b) any revenue, tax or cess payable to the Central Government or any other sum due to them by way of loan or otherwise;
- (c) any tax or cess payable to any local authority or any other sum due to them by way of loan or otherwise;
- (d) any liability in respect of the rent due to a Waqf or to any other religious or charitable institution;
- (e) any liability in respect of any sum due to any co-operative society, including a land mortgage bank, registered under the Co-operative Societies Act, 1912;

- (f) any liability in respect of any sum due to any company registered under the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or any Indian law or a Royal Charter or Letters Patent or registered in an Indian State;
- (g) any liability arising out of a breach of trust; and
- (h) any liability in respect of maintenance whether under an order or decree of court or otherwise:

Provided that where the liabilities mentioned in clause (e) arise by reason of an assignment to the co-operative society such assignment has taken place before 1st October 1937.

CHAPTER II.

REGISTRATION OF MONEY-LENDERS AND PAWN-BROKERS.

Registration of money-lenders and pawn-brokers—

4. (1) The Collector shall maintain a register of money-lenders and pawn-brokers residing or carrying on within his district business as money-lenders or pawn-brokers.

(2) Every money-lender or pawn-broker shall have his name registered as such in the register maintained under sub-section (1).

(3) An application for being so registered shall be in the prescribed form and shall be signed by the applicant and delivered personally, or sent by registered post, together with a fee of rupees two to the Collector of his district.

(4) A registration under this section shall remain in force for one year and may be renewed, as often as desired, on payment of a fee of one rupee for a similar period.

(5) Every pawn-broker to whom an article is pawned must give a receipt signed or thumb-impressed to the owner of the article showing the detail of the article pawned, its market value, the price for which it is pawned as well as the interest agreed to be charged upon the loan.

(6) Every money-lender must issue receipts and stamp them duly, if required by law, for money received whether towards payment of interest or principal.

(7) Any money-lender or pawn-broker who in any way whatsoever contravenes the provisions of this section shall on conviction by a magistrate be liable to a fine not exceeding rupees fifty.

(8) Without prejudice to the foregoing provisions of this section, if in a suit for the recovery of loan advanced after the commencement of this Act, it is found that the

- (f) any liability in respect of any sum due to any company registered under the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or any Indian law or a Royal Charter or Letters Patent or registered in an Indian State;
- (g) any liability arising out of a breach of trust *provided that no transaction which carries interest shall be considered as a trust*; and
- (h) any liability in respect of maintenance whether under an order or decree of court or otherwise:

Provided that where the liabilities mentioned in clauses (e) and (f) arise by reason of an assignment to the co-operative society such assignment has taken place before 1st October 1937.

CHAPTER II.

REGISTRATION OF MONEY-LENDERS AND PAWN-BROKERS.

Registration of money-lenders and pawn-brokers—

4. (1) The Collector shall maintain a register of money-lenders and pawn-brokers residing or carrying on within his district business as money-lenders or pawn-brokers.

(2) Every money-lender or pawn-broker shall have his name registered as such in the register maintained under sub-section (1).

(3) An application for being so registered shall be in the prescribed form and shall be signed by the applicant and delivered personally, or sent by registered post, together with a fee of a rupee to the Collector of his district.

(4) Every pawn-broker to whom an article is pawned must give a receipt signed or thumb-impressed to the owner of the article showing the detail of the article pawned, its market value, the amount for which it is pawned as well as the interest agreed to be charged upon the loan.

(5) Every money-lender must issue receipts and stamp them duly, if required by law, for money received whether towards payment of interest or principal.

(6) Any money-lender or pawn-broker who in any way whatsoever contravenes the provisions of this section shall on conviction by a magistrate be liable to a fine not exceeding rupees fifty.

money-lender or pawn-broker has not had himself registered in accordance with the provisions of this section, the court shall stay the hearing of the suit and require the money-lender or pawn-broker, as the case may be, to have himself registered and if he fails to do the same within the time granted or within the further period, if any, to which it may have been extended, his suit may be dismissed.

Licensing of money-lenders—

5. Every money-lender and pawn-broker may apply to the Collector for a license which shall be granted for such period, in such form, and on such conditions, and on payment of such fees, as may be prescribed.

Explanation.—When an application for the renewal of a license has been received from a licensed money-lender or pawn-broker before the expiry of his license, the existing license shall be deemed to continue in force until orders on the application have been issued.

Where license may be cancelled—

6. A license may be cancelled by the Collector and shall not be renewed for such period as may be specified by him if after the commencement of this Act a money-lender or pawn-broker commits an act or is guilty of an omission with reference to which he—

- (i) has been held by a Court to have contravened the provisions of Section 3 of the North-West Frontier Province Regulation of Accounts Act, 1935, in more than two suits;
- (ii) has had his suit dismissed with a finding that he has made dishonestly or fraudulently a material alteration in any document relating to a loan;
- (iii) has had his suit dismissed with a finding that it is fraudulent;
- (iv) has been found guilty by a Court of forgery or cheating in respect of a money transaction:

Provided that the Collector shall not cancel a license until the prescribed period of appeal, revision or review, as the case may be, has expired; or in case of appeal, revision or review, the appeal, revision or review has been finally decided.

When Collector may act—

7. (1) The Collector may take proceedings suo motu or on the application of any person interested for the cancellation of a money-lender's or a pawn-broker's license:

Provided that no license shall be cancelled without giving the money-lender or pawn-broker a notice in such form as may be prescribed.

(2) The Collector may during the period of limitation for an appeal, either of his own motion or on the application of a party interested, review his own order, provided no appeal is pending with the Revenue and Divisional Commissioner.

Effect of cancellation of license—

8. The name of a money-lender or pawn-broker whose license has been cancelled under Section 6 shall be struck off the register maintained at the office of the Collector for the registration of money-lenders and pawn-brokers;

Provided that a license shall not be deemed to be cancelled nor the name of the money-lender or the pawn-broker deemed to be struck off the register during the period an appeal or an application for review or an application under Section 10 is pending.

Further registration and licensing of money-lenders and pawn-brokers after expiry of period for which license was cancelled—

9. A money-lender or pawn-broker may, after the termination of the period for which his license has been cancelled, apply for registration and for the grant of a licence, to the Collector who shall, on his furnishing such particulars as may be prescribed, register his name on payment of a fee of one rupee; and shall grant him a license for such period in such form and subject to such conditions and on payment of such fees as may be prescribed.

Appeals, reviews and certificates—

10. (1) An appeal shall lie to the Revenue and Divisional Commissioner against the order of the Collector under Section 6 cancelling a license provided that the appeal shall be instituted within 30 days of the order appealed against, the period requisite for obtaining copies of such order being excluded.

(2) If the money-lender, pawn-broker or the appellant is not present at the time of announcement of the original or the appellate order, as the case may be, the order shall be communicated to him in such manner as may be prescribed.

(3) The Revenue and Divisional Commissioner may, in dismissing an appeal grant to the money-lender or pawn-broker a certificate specifying the loans in respect of which a suit may be instituted by him or the decrees in respect of which an application for execution may be presented.

(4) A money-lender or pawn-broker without appealing against or order of the Collector under Section 6 may within 30 days of the Collector's order cancelling his license apply to the Revenue and Divisional Commissioner for a certificate of the nature specified in sub-clause (3).

(5) The Revenue and Divisional Commissioner may, either on his own motion or on the application of a party interested, review his own order at any time within 30 days of the communication of his appellate order to the money-lender or pawn-broker concerned.

Suits and applications by money-lenders barred unless registered—

11. Notwithstanding anything contained

in any other enactment for the time being in force, a suit by a money-lender or pawn-broker for the recovery of a loan; or an application by a money-lender for the execution of a decree relating to a loan, shall, after the commencement of this Act, be dismissed, unless the money-lender or pawn-broker—

(a) at the time of the institution of the suit or presentation of the application for execution; or

(b) at the time of decreeing the suit or deciding the application for execution—

(i) is registered; and

(ii) holds a valid license in such form and manner as may be prescribed; or

(iii) holds a certificate from the Revenue and Divisional Commissioner granted under Section 10, specifying the loan in respect of which the suit is instituted or the decree in respect of which the application for execution is presented; or

(iv) if he is not already a registered and licensed money-lender or pawn-broker satisfies the Court that he has applied to the Collector to be registered and licensed and that such application is pending: provided that in such a case the suit or the application shall not be finally disposed of until the application of the money-lender or pawn-broker for registration and grant of license pending before the Collector is finally disposed of.

Saving—

12. Nothing in this Act shall apply to suits or applications for execution pending—

(a) at the time of the commencement of this Act; or

(b) on the date of the cancellation of the license of the money-lender or pawn-broker if before his current license is granted, or renewed, a Court has not given in any suit finding as would render him liable to have his license cancelled under the provisions of Section 6 of this Act.

CHAPTER III.

RATES OF INTEREST.

Rate of interest—

5. (1) All interest outstanding on 1st October, 1937, in favour of any creditor of an agriculturist whether the same be payable under law, custom or contract or under a decree of court and whether the debt or other obligation has ripened into a decree or not shall be deemed to be discharged and only the principal or such portion thereof as may be outstanding shall be deemed to be the amount repayable by the agriculturist on that date :

CHAPTER III.

RATES OF INTEREST.

Rate of interest—

13. (1) All interest outstanding on 1st October, 1937, in favour of any creditor of an agriculturist whether the same be payable under law, custom or contract or under a decree of court and whether the debt or other obligation has ripened into a decree or not shall be deemed to be discharged and only the principal or such portion thereof as may be outstanding shall be deemed to be the amount repayable by the agriculturist on that date.

Provided that subject to the provisions of sub-sections (2) and (3) no appropriation for principal or interest made before 1st October 1937 shall be re-opened after this Act comes into force.

(2) In cases where any debt of an agriculturist bore simple interest at rate higher than 9 per cent. per annum or compound interest and the agriculturist has paid to the creditor twice the amount of the principal of the loan whether by way of principal or interest before 1st October, 1937, all amount outstanding in respect of such debt including the principal shall be deemed to be discharged:

Provided that nothing herein contained shall affect any mortgage which is usufructuary mortgage within the meaning of Section 58 (8) of the Transfer of Property Act, 1882, and where no rate of interest is specified as due to the mortgagee.

Explanation.—This sub-section shall also apply to any case where there is a stipulation for payment in any contingency of simple interest at a rate higher than 9 per cent. per annum or of compound interest or of interest on interest.

(3) In the case of debts falling under sub-section (2) of this section and not falling under the proviso thereto where the sums repaid by way of principal or interest or both fall short of twice the amount of the principal, such amount only as would make up this shortage or the principal amount alone, or such portion of the principal amount as is outstanding, whichever is smaller, shall be payable.

(4) Nothing contained in sub-sections (1), (2) and (3) shall be deemed to require the creditor to refund any sum which has been paid to him before the commencement of this Act.

Explanation I.—Where the liability under a mortgage, promissory note, bond, decree or other obligation is renewed or included in a fresh document in favour of the same creditor, the principal originally advanced by the creditor together with such sums, if any, as have been subsequently advanced as principal, shall alone be treated as the principal sums re-payable by the agriculturist under this section.

Explanation II.—Where a mortgage, promissory note, bond, decree or other obligation is claimed by a creditor by reason of an assignment in his favour the principal sum shall be deemed to be the sum advanced to the debtor at the inception of the transaction unless it is proved that the assignment was taken at the instance of the debtor in which case the amount paid by the assignee for the assignment shall be treated as the principal sum due to the assignee.

(2) In cases where any debt of an agriculturist bore simple interest at rate higher than 9 per cent. per annum or compound interest and the agriculturist has paid to the creditor twice the amount of the principal of the loan whether by way of principal or interest before 1st October, 1937, all amount outstanding in respect of such debt including the principal shall be deemed to be discharged:

Provided that nothing herein contained shall affect any mortgage whereby a mortgagor has delivered possession of the mortgaged property to the mortgagee and has authorized him to retain such possession and to receive rents and profits thereof, undertaking to redeem the mortgage either on the expiry of the period fixed by the contract of mortgage or custom or on demand according to the terms of the mortgage.

Explanation.—This sub-section shall also apply to any case where there is a stipulation for payment in any contingency of simple interest at a rate higher than 9 per cent. per annum or of compound interest or of interest on interest.

(3) In the case of debts falling under sub-section (2) of this section and not falling under the proviso thereto where the sums repaid by way of principal or interest or both fall short of twice the amount of the principal, such amount only as would make up this shortage or the principal amount alone, or such portion of the principal amount as is outstanding, whichever is smaller, shall be payable.

(4) Nothing contained in sub-sections (1), (2) and (3) shall be deemed to require the creditor to refund any sum which has been paid to him before the commencement of this Act.

Explanation I.—Where the liability under a mortgage, promissory note, bond, decree or other obligation is renewed or included in a fresh document in favour of the same creditor, the principal originally advanced by the creditor together with such sums, if any, as have been subsequently advanced as principal, shall alone be treated as the principal sums re-payable by the agriculturist under this section.

Explanation II.—Where a mortgage, promissory note, bond, decree or other obligation is claimed by a creditor by reason of an assignment in his favour the principal sum shall be deemed to be the sum advanced to the debtor at the inception of the transaction unless it is proved that the assignment was taken at the instance of the debtor in which case the amount paid by the assignee for the assignment shall be treated as the principal sum due to the assignee.

Recovery of costs—

6. Where a debt payable by an agriculturist includes any sum decreed as costs by any court or sums lawfully expended by a mortgagee or other person in order to preserve the property mortgaged, such sum or sums shall be recoverable under Section 5:

Provided that where a decree has been obtained against an agriculturist in a suit instituted on or after the 1st October, 1937, the court shall allow only such costs, as would have been allowed if the suit had been filed for the amount of the debt as scaled down in accordance with the provisions of this Act and where in any such case a decree has been passed before the commencement of this Act the court shall on the application made by the agriculturist within ninety days of the commencement of this Act and after hearing the decree-holder amend its decree accordingly.

Nothing in the foregoing section shall apply to any suit instituted on or after the 1st October 1937 and before the commencement of this Act in respect of claim which would be barred by limitation before 1st April 1938.

Interest on loans raised before 1st October, 1937—

7. All debts which have been scaled down under the provisions of this Act shall so far as any sum remains re-payable thereunder carry from 1st October, 1937, interest at the rate previously applicable under contract, custom or otherwise:

Provided that it shall not in any case exceed 5 per cent. per annum simple interest.

Interest after the commencement of this Act—

8. No debt incurred by an agriculturist shall after the commencement of this Act bear interest at a rate higher than 6½ per cent. per annum simple interest:

Provided that the Provincial Government may by notification in the official Gazette alter and fix any other rate of interest from time to time.

Courts to act suo motu in application of this Act—

9. Every court which passed a decree shall on the application, made within 90 days of the commencement of this Act, of any judgment-debtor who is an agriculturist apply the provisions of this Act, to such decree and shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, amend the decree accordingly or enter full satisfaction as the case may be:

Provided that all payments made or amounts recovered whether before or after the commencement of this Act in respect of any such decree shall first be applied in payment of all costs as originally decreed.

Stay of proceedings in execution—

10. Every court executing a decree passed against an agriculturist shall on application stay the proceedings with a view to enable the judgment-debtor to make an

Recovery of costs—

14. Where a debt payable by an agriculturist includes any sum decreed as costs by any court or sums lawfully expended by a mortgagee or other person in order to preserve the property mortgaged, such sum or sums shall be recoverable under Section 13:

Provided that where a decree has been obtained against an agriculturist in a suit instituted on or after the 1st October, 1937, the court shall allow only such costs, as would have been allowed if the suit had been filed for the amount of the debt as scaled down in accordance with the provisions of this Act and where in any such case a decree has been passed before the commencement of this Act the court shall on the application made by the agriculturist within *one hundred and twenty* days of the commencement of this Act and after hearing the decree-holder amend its decree accordingly.

Nothing in *this* section shall apply to any suit instituted on or after the 1st October, 1937, and before the commencement of this Act in respect of claim which would be barred by limitation before 1st April 1938.

Interest on loans raised before 1st October, 1937—

15. All debts which have been scaled down under the provisions of this Act shall so far as any sum remains re-payable thereunder carry from 1st October, 1937, interest at the rate previously applicable under contract, custom or otherwise:

Provided that it shall not in any case exceed 6 per cent. per annum simple interest.

Interest after the commencement of this Act—

16. No debt incurred by an agriculturist shall after the commencement of this Act bear interest at a rate higher than 6 per cent. per annum simple interest.

Courts on application of judgment-debtors to apply the provisions of this Act—

17. Every court which passed a decree shall on the application, made within 120 days of the commencement of this Act, of any judgment-debtor who is an agriculturist apply the provisions of this Act, to such decree and shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, amend the decree accordingly or enter full satisfaction as the case may be:

Provided that all payments made or amounts recovered whether before or after the commencement of this Act in respect of any such decree shall first be applied in payment of all costs as originally decreed.

Stay of proceedings in execution—

18. Every court executing a decree passed against an agriculturist shall on application stay the proceedings with a view to enable the judgment-debtor to make an

application to the court which passed the decree to take action under Section 9:

Provided that where within sixty days after the application for stay has been granted the judgment-debtor does not accordingly apply to the court which passed the decree for relief under Section 9 or where an application has been so made and rejected, the decree shall be executed as it stood.

Explanation.—The expression “the court which passed the decree” shall have the same meaning as is assigned to it in the Code of Civil Procedure, 1908.

Payment by instalments—

11. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, a court at the time of passing or even after it has passed a decree for money against an agriculturist shall, unless for reasons to be recorded in writing it otherwise directs, order that the total amount found due for principal, interest and costs as provided by this Act shall be paid by such instalments as the court considers proper under the circumstances of the case:

Provided that the period of such instalments shall not extend beyond six years from the date of the decree.

(2) If the court orders the amount decreed to be paid by four or more than four instalments and at any time two instalments are in arrears the decree-holder may notwithstanding the provisions of any law for the time being in force immediately take out execution for the whole amount remaining due under the decree.

CHAPTER IV.

ARREARS OF RENT.

Arrears of rent—

12. All rents payable by a tenant-at-will or an occupancy tenant under the Punjab Tenancy Act, 1887, as applied to the North-West Frontier Province which have accrued before 1st October, 1937, and which are outstanding on the date of the commencement of this Act shall be deemed to be discharged whether the rent be due as such or whether a decree has been obtained therefor.

Receipts to be given by landlords—

13. Every landlord must issue receipts and stamp them duly, if required by law, for all rents received whether in money or kind, and if a landlord contravenes the provisions of this section he shall be liable, on conviction by a magistrate, to a fine not exceeding rupees fifty.

application to the court which passed the decree to take action under Section 17:

Provided that where within ninety days after the application for stay has been granted the judgment-debtor does not accordingly apply to the court which passed the decree for relief under Section 17 or where an application has been so made and rejected, the decree shall be executed as it stood.

Explanation.—The expression “the court which passed the decree” shall have the same meaning as is assigned to it in the Code of Civil Procedure, 1908.

Payment by instalments—

19. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, a court at the time of passing or even after it has passed a decree for money against an agriculturist shall, unless for reasons to be recorded in writing it otherwise directs, order that the total amount found due for principal, interest and costs as provided by this Act shall be paid by such instalments as the court considers proper under the circumstances of the case:

Provided that the period of such instalments shall not extend beyond six years from the date of the decree.

(2) If the court orders the amount decreed to be paid by four or more than four instalments and at any time two instalments are in arrears the decree-holder may notwithstanding the provisions of any law for the time being in force immediately take out execution for the whole amount remaining due under the decree.

CHAPTER IV.

ARREARS OF RENT.

Arrears of rent—

20. All rents payable by a tenant-at-will or an occupancy tenant under the Punjab Tenancy Act, 1887, as applied to the North-West Frontier Province which have accrued before 1st October, 1937, and which are outstanding on the date of the commencement of this Act shall be deemed to be discharged whether the rent be due as such or whether a decree has been obtained therefor:

Provided that the landlord shall be entitled to realise from such tenant only the sums paid by him to the Government as land revenue or abiana or both in respect of the crops of which the rent has been remitted and the recovery whereof is not barred by the provisions of the law of Limitation.

Explanation.—The term “tenant-at-will” or an occupancy tenant shall not include a lessee who has held or is holding land for a fixed term or from year to year under a contract or decree or order by a competent authority and is liable to pay a fixed sum in cash or kind or both as rent.

CHAPTER V.

RULES MAKING POWER.

Rules making power of the Provincial Government—

14. (1) The Provincial Government may make rules for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions the Provincial Government may make rules—

(a) regarding any matter which is required to be prescribed by this Act;

(b) prescribing the forms of the application under Section 4 (3); and

(c) for removing any difficulty in giving effect to the provisions of this Act.

(3) All rules made under this section shall be published in the local official Gazette and upon such publication shall have the force of law.

CHAPTER V.

RULES MAKING POWER.

Rules making power of the Provincial Government—

21. (1) The Provincial Government may make rules for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions the Provincial Government may make rules—

(a) regarding any matter which is required to be prescribed by this Act;

(b) prescribing the forms of the application under Section 4 (3); and

(c) for removing any difficulty in giving effect to the provisions of this Act.

(3) All rules made under this section shall be published in the local official Gazette and upon such publication shall have the force of law.

To

H. E. The Governor,

North-West Frontier Province,

PESHAWAR.

May it please Your Excellency,

1. At a Minorities' Conference held under the Presidentship of R. B. Diwan Chand Obhrai, at Peshawar, on Sunday, the 11th December 1938, it was resolved that a Deputation of the leading Hindus and Sikhs of the Frontier should wait upon Your Excellency to draw Your Excellency's attention to the iniquitous and one-sided nature of the N.-W. F. P. Agriculturists' Debtors Relief Bill, passed in the Autumn Session of the N.-W. F. P. Legislative Assembly. In pursuance of that Resolution, we the undersigned on behalf of the Hindu and Sikh Minority Communities in N.-W. F. Province, beg leave to approach Your Excellency with the following brief statement of our submissions in respect of the aforesaid Bill, now awaiting sanction of His Excellency the Viceroy and Governor-General of India in Council.

2. From the "opinions" on this Bill, published in a book form for use of the Hon'ble members of the Assembly and from the reports of the speeches of the Hon'ble members in the course of the passage of this Bill through the Assembly, it would be noticed that the measure was of a highly controversial nature. It was supported mainly by certain Muhammadan Societies and individuals with a view to take the utmost advantage of the overwhelming majority of Muslim members in the Assembly, and it was resisted by all shades of Hindu and Sikh public opinion consulted in this connection, including even such section which was otherwise favourably inclined to the Congress Ministry in the Province.

3. The Muslim opinion basing its claim for "relief" on the alleged sorry plight of "poor and ignorant" peasantry of this province, under a heavy debt, which they find "unbearable", has seen it fit to work upon the strong prejudice against the Hindu and Sikh money-lenders in villages and towns, and thereby to procure a general approval of this one-sided, harsh, and inequitable measure, without troubling themselves with any detailed and careful consideration of its provisions, and without even noticing that it goes much beyond the necessities, or the justice, of the case.

4. Indeed in some cases, it had been suggested that the provisions of the Bill are "not drastic enough", and "should be tightened up," and their application or beneficence should be extended by widening the definition of "Agriculturists" in the Bill to include the urban debtors as well. This view urged by certain Muhammadan societies and individuals, was adopted by the Select Committee, which modified and enlarged the definition of agriculturists, and gave a more stringent shape to the Bill by the inclusion of provisions as to "licensing" of the money-lenders, under the influence of the United Muslim Nationalist Party who form the opposition and the Independent Muslim members, supported by the Hon'ble Mover of the Bill, himself as President of the Select Committee. The only two Hindu members (Congress) on the Select Committee found it impossible to co-operate and had to walk out under protest.

5. Later, a deputation representing the unanimous views of the Hindu and Sikh members of the Assembly including the Congress M. L. As., led by R. B. Diwan Chand Obhrai, waited upon the Hon'ble the Chief Minister to secure a withdrawal, or modification of the Agriculturists' Debtors Relief Bill, and to seek his protection against the main objectionable features of both the original and the altered Bill, in the interests of the best administration of the province (*vide* Annexure 'A').

6. The Hon'ble Premier, Dr. Khan Sahib, held a long discussion with the Deputationists, with a view to bring some of its main provisions more in accordance with fairness and justice to all concerned, and made certain pronouncements accepting the minimum demands of the Minority Communities, as follows :—

- (i) He agreed that the Select Committee had exceeded its powers in introducing fresh clauses as to licensing and that the same will be deleted.
- (ii) The figures "500" and "250" in the definition clause were excessive and that the same will be reduced to "250" and "125" respectively.
- (iii) No retrospective effect will be given on the analogy of *Damdapat* rule, so as to work automatic payment of debts if interest equal to principal has been realised in the past.
- (iv) A rate of interest, 9 per cent, will be taken as fair rate for past transactions within the last three years and no further retrospective effect will be allowed to affect the interest paid, and that the principal will remain untouched.
- (v) Arrangements *vs.* the scaled down debts due to money-lenders will be made and that the Orissa Act will be followed allowing recovery of the arrears due so formed, by attachment of land, etc.

7. It may be observed, however, that ultimately nothing came out of this interview except the withdrawal, by amendment, moved by a Congress Parliamentary Secretary, of the licensing provisions introduced by the Select Committee. The Muslim Congress members, encouraged by the support from the other members of the Majority Community in the Assembly, decided to pass the Bill in its original form as desired by the Hon'ble Minister of Education, retaining all those unsatisfactory features, to which the attention of the Hon'ble Premier had been drawn in a vain effort to secure that protection and safeguarding of minority interests to which they are entitled under the constitution. The helpless minorities found to their cost that a full and free discussion of their grievances in the Assembly was handicapped by the Hindu and Sikh Congress members being forced to work against their conscience in the matter, under party discipline, for fear of a revolt upsetting the Congress Ministry. The members of the Hindu-Sikh Nationalist Party accordingly walked out of the Assembly. A copy of the statement issued by their party leader R. B. Mehr Chand Khanna is enclosed for your kind perusal in this connection. (Annexure 'B').

8. Your Excellency's Deputationists respectfully submit that the Bill aforesaid has been passed in the Assembly in total disregard of the minority opinion all over the province, and to meet the views of the Muhammadan Majority Community to which class all the agriculturist debtors naturally belong. Under the extraordinary and complicated position of the money-lending and trading minority communities in the province, labouring under the great disadvantages and the grave danger of neglect or sacrifice of their vital interests to which they stand exposed by their very situation, we respectfully beg leave to invite Your Excellency's attention to certain features of the Bill, to which the minority take most serious objection for following, among other grounds :—

- (a) This Bill is altogether one-sided, inasmuch as while arranging for "relief" to agriculturist debtors, in the shape of moratorium on interest and the automatic adjustment of past debts, even when secured by decrees or orders of courts, it makes no compensatory provision in the matter of recovery of the scaled down debts due to the non-agriculturist creditors.

- (b) An "agriculturist" is defined in this Bill to mean "a person whose main source of livelihood is income derived from agriculture, and whose land is not assessed to more than (a) Rs. 500/- annual land revenue in case of Nehri Awal and Nehri Doem and (b) Rs. 250/- in any other case".

Your Deputationists maintain that these figures are very high and persons falling outside this definition would be a few hundred big zamindars, at the utmost, in the province as a whole. As pointed out above, even the Hon'ble Dr. Khan Sahib agreed with his deputationists that the figure was at least double of what was equitably required. Of course, it was quite an easy affair for his colleague, the Hon'ble Mover of the Bill, to secure the rejection of the amendments directed towards this definition under circumstances pointed out in para 7 above.

- (c) The moratorium clause on interest as providing clause 5 (i) of the Bill is as follows:—

"All interest outstanding on 1st October 1937, in favour of any creditor of an agriculturist, whether the same be payable under law, custom or contract or under a decree of court and whether the debt or other obligation has ripened into a decree or not, shall be deemed to be discharged and only the principal or such portion thereof as may be outstanding shall be deemed to be the amount repayable by the agriculturist on that date".

The compulsory discharge of all interest, outstanding on 1st October 1937, whether on old or recent debts, whether the rate agreed upon was fair or high, and irrespective of any decree or order of a court of law, is extremely harsh and unjust. Interest exceeding 9 per cent on unsecured loans should alone have been interfered with, if at all.

- (d) The rule of *Damdapat* borrowed from Hindu Law for purposes of its application to Muhammadan debtors is the most novel feature of this legislation. This rule stands abrogated since 1855 by legislation in provinces where it was once in force applicable to Hindu parties. Contract and Limitation Acts of 1871, 1872, with subsequent amendments, have governed contractual matters, and suits or executions for recovery of debts and decretal claims for the past over 66 years. The Bill in making retrospective application of this rule, or its analogy, to legal rights has violated all principles of law, justice and equity, and is calculated to create a most intolerable condition of money-lenders as a class. This rule, moreover, has been entirely misunderstood, and misapplied in this Bill, to work out automatic adjustment of old debts on basis of double the interest having been paid off in respect of the principal originally lent. The rule, even when and where applicable, was only limited to the principal *then* due, and a suit against a Hindu debtor for interest was not barred merely because the principal sum lent had been paid off. The rule did not forbid the conversion by subsequent agreement of interest in arrear into capital and providing for interest on it. The amount of interest recoverable in execution of a decree was never governed by the rule of *Damdapat*. The wrong application of the rule of *Damdapat* is calculated to adversely affect the Hindu-Sikh Minority Communities, to which class the money-lenders belong to the extent admittedly of over 9 Crore of rupees which would be wiped off without any payment by the debtor.

The interested parties on the other side have tried to justify their action, in passing this Bill into an Act, by quoting the instance of U. P., C. P. and Madras. It cannot be ignored in this connection, that this Province is in an anomalous position and in the matter of Agrarian Legislation it cannot be compared to other provinces where the Land Alienation

Act is not in force. Here in this Province the Land Alienation Act, by creating "Statutory Agriculturists" and "Non-Agriculturists", has perforce turned the minorities into money-lenders as a class whose capital, though invested in the purchase of land, can only be treated as a debt due from his Muslim brother who is treated an "Agriculturist" irrespective of the fact whether he tills the land or not. Under such circumstances, of the so-called "Agriculturist" Muslim, however, can be allowed to retain the land with all its produce and profits reaped for a number of years, the so-called "Non-Agriculturist" Hindu or Sikh lender should also be allowed to realise from him his that money with all reasonable interest which, for aught one knows, was advanced for the purchase of that very land.

Your deputationists do concede that there is a class of really poor agriculturists who deserve relief, and that relief to such Muslim brethren will never be grudged by the minorities in this Province at any cost to themselves, but your humble deputationists cannot but forcefully represent to Your Excellency that this measure in the form as passed by Legislative Assembly does not meet the case of such deserving agriculturists. It benefits the rich "Statutory Agriculturists" at the cost of the poor Hindus and Sikhs who are labelled as money-lenders.

While, therefore, conceding the fairness or necessity of some "relief" being granted to poor peasants belonging to agriculturist communities, your deputationists venture to hope that sanction of His Excellency the Viceroy and Governor-General will be withheld to a measure of this description which practically amounts to the utter ruination of the helpless Hindu-Sikh minorities as a class.

We beg to remain,
Your Excellency's
Most obedient servants

23rd January 1939.

(Sd). Nearly 300 leading Hindus
and Sikhs of N.-W. F.
Province.

Annexure 'A'

To

The Honourable

The Chief Minister, N. W. F. P.,

PESHAWAR.

Respected Sir,

At a meeting of the Hindu and Sikh members of the N.-W. F. P. Legislative Assembly, held at the house of R. B. Diwan Chand Obhrai, yesterday afternoon, it was unanimously decided by all those present, including most of the Congress M. L. As., that a deputation consisting of the said Rai Bahadur, with R.S. Parma Nand & R.B. Mehr Chand Khanna, should approach the Hon'ble the Chief Minister, to explain the view of the Hindu and Sikh members of the Assembly, concerning the N.-W. F. P. Agriculturist Debtors Relief Bill as it has emerged from the Select Committee, and to seek his *protection* against the main objectionable features of both the original, and the altered Bill, in the interests of the best administration of the Province.

This humble deputation, therefore, craves leave to submit, that the "opinions" on the proposed legislation reveal two different points of view: one urged by certain Muhammadan societies and individuals, that the provisions of the Bill are "*not drastic enough*" and it is urged that advantage should be taken of the overwhelming majority of Muslim members in the Assembly, "*to include within its scope the urban debtors*" and that "*the provisions of the Bill should be tightened up*".

This view has been combated by all the Hindu and Sikh organisations and individuals representing the minority point of view consulted in the matter. They consider that the Bill, as originally drafted and circulated for opinion, was extremely harsh, most unsatisfactory, and calculated to be detrimental to the cause of the money-lenders as a class, whose interests appear to have been *altogether ignored* in framing this Bill. The scale of justice and fairness, in the hands of popular Congress Ministry, are held by you, as the worthy Chief Minister of the Province, and it is commonly taken for granted that you are above communal considerations, and would be pleased to devote a careful study of the features of the proposed legislation to which most serious objection is being taken by the representatives of the minority interests, whom you, respected Sir, as a most important part of the Machinery of Provincial Government, are bound to protect under the statute.

Your deputationists, therefore, beg most respectfully to point out that the proposed measure, while arranging for some "relief" to agriculturist debtors, makes no provision for the recovery of the debts due to the non-agriculturist creditors. The Hindu and Sikh money-lenders would have welcomed any scheme or suggestion, by which fair transactions could have been differentiated from usurious or unfair bargains and any debts equitably and fairly reduced by a reliable Tribunal or Board, could have been adjusted by suitable payments guaranteed by statute. The absence of any the least arrangement for the payment of scaled down debts marks this measure, as a class-measure intended solely for the benefit of one class, without the slightest corresponding or compensatory advantage to the other class, and it is altogether one-sided and unjust.

Your deputationists feel that the definition of "agriculturists," as originally drafted, was much wider than required by the policy of helping the poor peasants, or persons depending solely on agriculture as a profession, for means of their livelihood or subsistence, whose property was so insignificant as to make them altogether unable to meet their "heavy and

(ii)

oppressive liabilities", in the normal course, without recourse to a relief measure of the type proposed. The Select Committee, instead of restricting the definition to the class of persons for whose relief this Bill was really intended, has enlarged its scope to all persons having any the least connection with land, either as proprietor, cultivator, lessee or otherwise, which is practically equivalent to depriving the money-lenders of their debts outstanding against almost the entire Muslim population in the province. This further takes no account of the nature of the debt, or the circumstances in which it was incurred, and is most sweeping in its application. The members of the Hindu and Sikh Minority Community cannot possibly accept this definition of an agriculturist, as sound, and do not see any justice or fairness in this extended application of the definition, which required careful limitation and restriction to actual cultivators of the soil of very insignificant means. Your attention is drawn to proposed amendments of which notice has been given by certain Hon'ble members of the N.-W. F. P. Legislative Assembly yesterday.

The rule of *Damdapat* borrowed from Hindu Law for purposes of its application to Muhammadan debtors is the most novel feature of this legislation, and requires some little consideration to show its perversion or misunderstanding by the framers of both the original and the modified Bill.

The text of Manu, (Ch. VIII, Sec. 151), "that interest on money received at once must never be more than double the debt" (that is more than the amounts of the principal paid at one and the same time) meant that, under Hindu Law, applicable to Hindu parties, *arreas of interest* more than sufficient to double the debt, were not recoverable. The interest paid was never taken into consideration. This rule was not applicable where the defendant was a Muhammadan. It did not apply to mofussil courts of the Bengal Presidency. According to Madras and N.-W. F. Province, the rule had been abrogated by Act 28 of 1855 in the mofussil. It applied to Bombay Presidency, but was limited to the principal *then due*: and not to the principal originally lent. A suit against a Hindu debtor for interest was not barred merely because the principal sum lent had been paid off. The rule did not forbid the conversion by subsequent agreement of interest in arrear into capital and providing for interest on it. The amount of interest recoverable in execution of a decree was not governed by rule of *Damdapat*. It did not apply to mortgages under the Transfer of Property Act.

Since 1855, it stands abrogated, by legislation and contract and Limitation Acts of 1871, 1872, with subsequent amendments now govern contractual matters and suits or executions for recovery of debts and decretal claims. The Bill in making retrospective application of this rule or its analogy, has violated all principles of law, justice and equity and is calculated to create a most intolerable condition of money-lenders as a class.

Your deputationists respectfully point out that as the most reasonable and minimum demand of the Minority Community in N.-W. F. P., the popular Ministry will be pleased to see (1) Additions by Select Committee of the nature of "licensing" of creditors are deleted; (2) That the definition of "agriculturists is restricted to actual cultivators and persons solely depending on agriculture for their subsistence"; (3) The rule of *Damdapat*, long abrogated, is not to have retrospective application to past transactions between money-lenders and debtors in the province and especially (4) Arrangement is made by Statute for the payment of scaled down debts. This is without prejudice to right of minority members to move their amendments in the Assembly.

Peshawar :

9th November 1938.

We beg to remain,
Sir,

Your most obedient servants

(Sd). Mehr Chand Khanna, M. L. A.
(Sd). Parma Nand, M. L. A.
(Sd). Diwan Chand Ohrai.

(iii)

Note—After hearing the above, a verbal discussion resulted in the following pronouncements by the Premier :—

1. He agreed that the provision as to registration of money-lenders was all that was required and the new addition of clauses as to "licensing" of money-lenders, with consequences laid down therein, should be deleted.

2. The definition of "Agriculturist" as framed by the Select Committee will be deleted, and the old definition restored with the modification of figure 250 for 500 and 125 for 250 in that definition.

3. No retrospective effect will be given on analogy of *Damdapat rule*, so as to work automatic payment of debts if interest equal to principal has been realised in the past.

4. A rate of interest 9 % will be taken as fair rate for past transactions within the last three years and no further retrospective effect will be allowed to affect the interest paid and the principal will remain untouched.

5. Arrangement by conciliation Board, etc., at basis, due to money-lenders, and the Orissa Act will be followed allowing recovery of the arrears due so found by attachment of land, etc.

(Sd.) Mehr Chand Khanna, M. L. A.
(Sd.) Parma Nand, M. L. A.
(Sd.) Diwan Chand Obhrai.

Annexure 'B'.

R. B. Mehr Chand Khanna, M. L. A. (Frontier), Leader of the Frontier Hindu-Sikh Nationalist Party, in a statement to the press says:—

"I feel I must explain the reasons which necessitated our walk-out from the Frontier Legislative Assembly during the passage of the Agriculturist Debtors Relief Bill. This Bill was introduced with a view to provide for the relief of indebted agriculturists in the N.-W. F. P." Some of the salient features of the Bill are as follows:—

"Under Clause 2 of the Bill an agriculturist means 'a person whose main source of livelihood is income derived from agriculture or horticulture and whose land is not assessed to more than: (a) Rs. 500 annual land revenue in case of Nehri Awal and Nehri Doem; and (b) Rs. 250 in any other case'.

"Clause 5 suggests that 'all interest outstanding on October 1, 1937, in favour of any creditor of an agriculturist whether the same be payable under law, custom or contract or under a decree of court and whether the debt or other obligation has ripened into a decree or not, shall be deemed to be discharged and only the principal or such portion thereof as may be outstanding shall be deemed to be the amount repayable by the agriculturist on that date'.

"Clause 5 (2) deals with the application of the rule of *Damdapat*, viz. the discharging of 'all amount outstanding' provided 'that the agriculturist has paid to the creditor twice the amount of the principal of the loan whether by way of principal or interest before October 1, 1937'.

"In the Bill, however, no provision has been made regarding the payment of the scaled down debts".

PROTEST MEETINGS.

"This Bill was circulated for eliciting public opinion thereon. The printed copies of the opinions gathered were made available to the members. These afford a very interesting reading. Mention is made of nearly 100 public meetings arranged by the various Hindu and Sikh organisations in the province and also of a memorial signed by over 7,000 Hindus and Sikhs protesting against this iniquitous and one-sided measures. The Bill has also been adversely commented upon by no less an authority than the Hon'ble Additional Judicial Commissioner, N.-W. F. P.

"This Bill, extremely harsh and harmful to the interests of the minority communities, was still further tightened up by the Select Committee comprising 11 members (nine Muslims and two non-Muslims). The two non-Muslim Members, who belonged to the Congress fold, walked out of the Select Committee as it was not possible for them to cooperate.

"Later on, nearly all the Hindu and Sikh members of the Assembly, irrespective of the fact that they were Congressites or not, including L. Bhanju Ram Gandhi, Finance Minister, led by R. B. Diwan Chand Obhrai, waited in a deputation on the Hon'ble Dr. Khan Sahib. This deputation explained to the Premier the implications and the salient features of the Bill and expressed the Minority Communities' main objections to the original Bill.

"After giving us a patient hearing for over two hours the Premier made certain pronouncements, agreeing (1) that the provisions as to licensing introduced by the Select Committee were unnecessary; (2) that the figures of Rs. 500 and Rs. 250 in the definition clause were rather high and assured the deputationists that the same would be lowered to 250 and

(ii)

125 respectively; (3) that the moratorium clause was not justified and that retrospective effect would not be given so as to touch the principal and that interest exceeding 9 per cent realised during the past three years would only be reduced; (4) that the rule of *Damdapat*, which was only applicable to Hindus and which had also been abrogated by Act 28 of 1855, would not be revived so as to work automatic adjustment of loans; (5) that, as regards scaled down debts, the provisions of the Orissa Act would be incorporated which relate to the 'scaled down debt' being a charge on the land till it is redeemed.

"This was the understanding which was arrived at. We agreed to it as we considered it a lesser evil. I am sorry to say that when amendment after amendment was moved by my party on the lines of the pronouncements of the Premier referred to above, they were not only stoutly resisted by the Government and the other Muslim members, but were thrown out wholesale. The Bill was pushed through in its original form disregarding the minority interests altogether. Under the circumstances we thought it best to walk out and not be a party to this tyrannical measure".

25th November 1938.

THE PUNJAB LAND ALIENATION ACT

[Being a reprint of the articles which appeared in the
" Servant of India " Oct. 1926—May 1927]

BY

P. KODANDA RAO M.A.,

Member, Servants of India, Society.

X 9(J): (2236)
F)

THE PUNJAB LAND ALIENATION ACT

BY

P. KODANDA RAO M.A.,
Member, Servants of India Society.

[Being a re-print of the articles which appeared in the "Servant of India"]

[The Servant of India, dated 21st October 1926.]

I.—INTRODUCTORY.

The political pilgrim to the Land of the Five Rivers does not take long to discover how profoundly the political discontents and discussions in that province are shaped, and how deeply they are coloured, by the Punjab Land Alienation Act. This Act, which is obviously an agrarian measure, was passed as long ago as 1900, and yet the agitation over it has not died down; it is as alive as ever. Opinion is still sharply divided as to the effects of the Act. The Government considers the Act a success, regards it as an instrument for the "emancipation of the agriculturist", and asserts that the agriculturists cherish it as their "Magna Charta". The opponents of the Act as vehemently protest that most of the present evils in the Punjab of a political, communal and economic nature spring primarily from the Act, bitterly resent it and demand its repeal. It is all very mystifying to the non-Punjabee. He can hardly recall any other agrarian Act, agitation over which was kept up for so long a time as a quarter of a century; he can hardly recall an agrarian Act which has been charged with so many, so serious and withal so extraneous consequences. It would not, therefore, be an unprofitable task to attempt a study of the Act and its effects and understand the truth about these rival claims and charges.

Such a study is opportune just now. The Royal Commission on Agriculture is entering on its labours, which may be of mighty consequences to India. The Commission has, among its terms of reference, the investigation of the "methods by which agricultural operations are financed and credit afforded to the agriculturists and the main factors affecting the rural prosperity and welfare of the agricultural population." It is obvious that agricultural indebtedness is the governing factor in rural welfare, and Lord Curzon contended that the Punjab Land Alienation Act was intended to combat it. In his speech on the Bill (27th Sept. 1899) he observed that "the question of agricultural indebtedness in many parts of India had attracted the attention of Government... and laws have been passed for the mitigation of the abuse. But all of these dealt, so to speak, merely with the fringe of the subject; and only today are we engaged for the first time, in introducing a measure of first class legislative importance to check this great and growing evil." While the Bill was limited to the Punjab, Lord Curzon contemplated its extension to other parts of India. "But our vision is not centered on the Punjab alone," continued His Lordship. "This canker of agricultural indebtedness, which is eating into the very vitals of India... is not one of narrow or contracted application... Should we be successful in this enterprise, we shall be encouraged to proceed." The Act must, therefore, be of interest to the Royal Commission, which will doubtless review its effects in the economic field, and recommend its extension to other Provinces if satisfied with its results. The Punjab Land Alienation Act is, therefore, of live interest not only to the Punjab but to other Provinces as well.

II—MAIN PROVISIONS OF THE ACT.

What then was the objective, immediate and ultimate, of the Act; how did the Act set about achieving it and with what result? According to the Statement of Objects and Reasons appended to the Bill, the object of the measure was "to place restrictions on the transfer of agricultural land in the Punjab with a view to checking its alienation from the agricultural to the non-agricultural classes." For this purpose the Act had to define who an agriculturist was. Unlike the Deccan Agriculturists' Relief Act, the Punjab Act does not define the agriculturist.

Sec. 4 provides that "The Local Government shall, by notification in the local official Gazette, determine what bodies of persons in any district or group of districts are to be deemed to be agricultural tribes or groups of agricultural tribes for the purpose of this Act." It will be noticed that it is entirely for the Executive Government to say who is an agriculturist and who is not; the individual or even the tribe to which he belongs has no option in the matter. Nobody can become an agriculturist; one must be born in a tribe which the Government has notified as agriculturist. Under this section Government have "notified" certain tribes and castes in different districts. But it is not every notified tribe that has the status of an agriculturist in the whole Province. Some tribes are notified as agriculturist only for certain districts. For instance the Brahmin is an agriculturist in the Kangra district, but not in other districts and even there only if he lives in the Kulu and Saraj Tahsils, not otherwise. Similarly there are a number of tribes and castes which are notified tribes in certain districts but not in others. Further, each notified tribe is "agriculturist" only in that district. For instance, a Jat who is an agriculturist in the Amritsar district cannot claim that status in the Lahore district, though the Jat in the Lahore district is also a notified agriculturist. The Government Notification requires that a person claiming the status of an agriculturist must fulfil two conditions: he must either hold land or ordinarily reside in that district; and he must belong to any one of the tribes notified as agricultural for that district.

Having thus defined the "agriculturist," the Act prohibits the permanent alienation of land belonging to agriculturists to non-agriculturists without the sanction of the Deputy Commissioner of the district, who is required to enquire into the circumstances of the alienation and either grant or refuse sanction at his discretion. Though sanction is not necessary for bonafide gifts for a religious or charitable purpose, in practice it has become necessary as the Dy. Commissioners have to enquire whether the gift is bonafide or a cloak to evade the Act. The Dy. Commissioners have instructions not to sanction alienations except under certain circumstances mentioned in the Circulars of the Financial Commissioners. The main policy, however, is to prevent alienations.

Mortgages of land by members of agricultural tribes to others must be in one of three forms—(1) usufructuary mortgage, for a maximum period of 20 years and on condition that at the end of the period of mortgage, the mortgaged land shall revert to the mortgagor with the mortgage debt extinguished; (2) simple mortgage without possession but on condition that if the mortgagor fails to pay up his dues regularly according to the contract, it would be converted into a usufructuary mortgage with possession for a period not exceeding 20 years; and (3) usufructuary mortgage with possession, but on condition that the mortgagor remains on the land as the occupancy tenant of the mortgagee

on a rent not exceeding the revenue assessment. Other provisions facilitate the redemption of mortgages by agriculturists: they can redeem even during the currency of the mortgage on terms that the Dy. Commissioner may fix. The Act further provides that conditions in mortgages intended to operate by way of conditional sale shall be null and void and prohibits the sale of the agriculturist's land in execution of a Court's decree. The essence of these provisions is to prohibit the sale of an agriculturist's land to a non-agriculturist either by private sale or in execution of a decree of a court and to limit the period of usufructuary mortgages to 20 years, after which the land reverts to the owner free of debt.

Another important feature of the Act is the exclusion of the jurisdiction of the ordinary Civil Courts and the vesting of the application of the Act in executive officers. Lawyers are under an absolute taboo. Very large powers and responsibilities are entrusted to the Dy. Commissioner. He can grant or refuse sanction for permanent alienation by an agriculturist to a non-agriculturist; and before granting such a sanction, he has to make efforts to find a purchaser from among the agriculturists. If a mortgagor on a simple mortgage fails to pay up his dues to the mortgagee regularly, he has to convert it into a usufructuary mortgage, and fix the amount to be repaid and the period for which the usufruct is to run to liquidate that amount and put the mortgagee in possession. He has to fix the amount payable by the mortgagor when he wishes to redeem his land and to eject the mortgagee if the amount so fixed is paid. He has to revise the unlawful mortgages made by the mortgagors and bring them into line with the mortgages permitted by the Act and if in so doing the mortgagor is unwilling or absent, to execute the mortgage himself on behalf of the mortgagor. The Dy. Commissioner is thus placed in the position of a guardian to the agriculturists, and he can, on his own initiative, do things for them even without their consent and sometimes against their wish, provided, of course he believes that he is acting in their interest.

But be it remembered that this benevolent and protective interposition of the Dy. Commissioner is allowable only when an agriculturist, that is, a person born in a tribe notified by Government as agriculturist for the purpose of the Land Alienation Act, intends to alienate, temporarily or permanently, his land to a non-agriculturist; it is not allowed when an agriculturist alienates his land to another agriculturist, nor when a non-agriculturist alienates his land to either.

III—LAND TRANSFER.

It has been mentioned that the immediate object of the Act was to check the alienation of agricultural land from the agricultural to the non-agricultural classes. Statistical data showing the extent of land alienated by agriculturists to other agriculturists and to non-agriculturists were provided in the special annual reports on the Land Alienation Act for the years 1901 to 1908. Since then the Land Revenue Administration Reports contain statements showing only the extent of land alienated by and to agriculturists. According to Statement No. XXVI appended to the Land Revenue Report for 1925, the agriculturists have sold during the years from 1901 to 1925, 38,86,365 acres, but it does not say how much of this was sold to non-agriculturists, and whether there has been a progressive fall therein. The same Statement shows that sales to agriculturists during this period amount to 42,41,808 acres, but how much of this was from non-agriculturists it does not say. The Statement mentions that during the years 1924-25, sales by agriculturists amounted to 1,82,662 acres, while

the sales to them amounted to 1,88,717 acres, and the Report remarks that the "agricultural tribes gained by purchase a net area of 6,055 acres" (para 31). This would be so if the sales by agriculturists were all to non-agriculturists and the sales to agriculturists were all from non-agriculturists, which is very far from being the case. On the other hand if all the sales by agriculturists were to other agriculturists and all the sales to agriculturists were from non-agriculturists, the net gain to the agriculturists would be 188,717 acres and not only 6,005 acres. It is, therefore, difficult from the statements provided in the Land Revenue Report since 1908 to measure statistically the extent and tendency of land transfer from the agriculturists to the non-agriculturists. The various Government reports speak of the success of the Act. The Land Revenue Administration Report for 1925 remarks that "attempts continue to be made to evade the provisions of the Act but to no very serious extent except possibly in the Jhang district." Even as early as 1904 the Annual Report on the Working of the Act reported that the effect of the Act was practically to stop all permanent alienations by agriculturists to others, and that the transactions, both permanent and temporary alienations, were inter-tribal in the fullest sense of the term, and congratulated itself on that "very encouraging" feature, by which one of the great objects of the Act was fulfilled. Permanent alienations require the sanction of the Dy. Commissioners, and they can certainly be trusted to promote the object of the Act which is to prevent land passing from agriculturists to others. How rigorous the Government was in enforcing this policy may be seen from the remarks of the Financial Commissioner when he noticed that a Dy. Commissioner sanctioned an alienation because a non-agriculturist offered Rs. 18,000 for a piece of land belonging to an agriculturist, while the highest price that an agriculturist was willing to pay was only Rs. 12,000. The Financial Commissioner remarked: "We do not want to get the zamindar a good price for his land, but to prevent his parting it" in favour of a non-agriculturist (para. 15, Land Alienation Act Report for 1902). From the point of view of preventing the passing of land from 'agriculturists' to 'non-agriculturists,' the Act has undoubtedly been a success. It could not be otherwise, unless Dy. Commissioners were very lax, which of course, is unthinkable in this matter. But is such prevention the sole and the basic justification for the Act?

[*The Servant of India*, dated 28th October 1926.]

IV—AGRICULTURAL INDEBTEDNESS.

We ended the last article on the query whether the checking of land transfer from agriculturists to non-agriculturists was the main purpose of the Act. For answer we again turn to the Statement of Objects and Reasons that accompanied the Bill. "The expropriation of the hereditary agriculturist in many parts of the Province through the machinery of unrestricted sale and mortgage has been regarded for years past as a serious political danger. It is recognised that the danger is accompanied with bad economical results, that it is increasing and that, if not arrested, it will grow into formidable dimensions. ...After the most careful consideration of the subject, ... the Government of India have come to the conclusion that direct remedial measures must be undertaken." It will be noticed that it was the political danger of expropriation of the hereditary agriculturist that was, according to the Statement of Objects and Reasons, the main cause that led to the Bill, though it was also recognised that there was an economic aspect to the question. This is a bit surprising when we look to the history of the Bill and read the eight special annual Reports on the working of

the Act or the paragraphs devoted to the Act in the subsequent Land Revenue Reports, all of which emphasise the economic aspect almost to the exclusion of the political aspect. It was the Hon. Mr. C. L. Tupper, who was closely connected with the inception of the Act, that said in the Legislative Council that "it is the political reasons which have most strongly influenced my judgment in this important matter" (19th Oct. 1900). Subsequently, as Financial Commissioner of the Punjab, he was put in charge of the operation of the Act and in his last special report on the Act for 1907, he said: "The main object of the Act was to make it less easy for the agricultural tribes who own the great mass of land to sell it to non-agricultural classes to whom it was passing at a rapid rate, to the great and lasting injury of the peasant families who were thus becoming gradually reduced from the independent position of peasant proprietors to that of tenants holding under landlords or landless labourers" (para 27). This statement refers exclusively to the economic side and is devoid of any political flavour. The speeches of Sir Charles Rivaz, who was in charge of the Bill, and whose death last week we lament, were also pitched to an economic key. "The question of the indebtedness of the agricultural classes in different parts of India has attracted the notice of the Government from the early times of British rule and various schemes have been proposed from time to time, with the object of protecting landholders from the effects of debt and the consequent loss of their lands." Thus began Sir Charles Rivaz in introducing the Bill on 27th September 1899. In that speech he gave the history of the Bill. In 1894 the Government of India had come to the conclusion that to meet "the difficulties connected with the general problem of agricultural indebtedness" "some action in the direction of restriction upon the alienability of land was generally advisable and even necessary;" and in 1895 it circularised the Local Governments for their considered opinions on the subject. In that connection the Government of India prepared two notes "in which the whole subject of agricultural indebtedness in India and the various possible remedies for checking transfers of land were exhaustively explained and discussed." "On receipt of replies to this Circular," continued Sir Charles, "it was decided to deal first with the Punjab as being the Province where the question of agricultural indebtedness was of special importance in its political aspect, and where it was probably possible to go further than elsewhere in respect of imposing restrictions on land transfers." We have already quoted Lord Curzon acclaiming the Bill as a first class legislative measure to check the great and growing evil of agricultural indebtedness. It is, then, fairly clear that the Act was intended to check agricultural indebtedness.

It is, therefore, surprising that the Government reports on the Act seldom, if ever, make any reference to this purpose of it and express an opinion as to whether it has checked agricultural indebtedness or not. The Punjab Administration Report for 1924-25 has a graph representing what the Report chooses to call "The Emancipation of the Agriculturist." It shows that the total cultivated area under mortgage has fallen from 34 lakhs to 29 lakhs of acres from 1901 to 1924; but it does not indicate whether or not the agriculturist has been emancipated from Debt. In fact the Government reports do not touch on that question. For an answer to it, we must turn elsewhere. Mr. M. L. Darling has a fascinating study on this very subject, entitled "The Punjab Peasant in Prosperity and debt," published as recently as 1925. "In the last 30 years, therefore, we may safely conclude," says Mr. Darling, "(a) that rural debt has increased by at least 50 crores, and (b) that it is multiplied fourfold" (p. 234). Allowing for depreciation in the purchasing power of the rupee during these 30

years, the debt has still doubled itself during the period (p. 285). The increase was spread out as under :—

1893-1902 increase in crores of rupees	15.
1903-1912 do.	9.
1913-1922 do.	30 (p. 238)

The contraction in debt in the decade 1903-12 was due to the apprehensions created by the Act, but that was a passing phase; and the subsequent increase in debt not only made up for the contraction, but shot up in the next decade.

The mere increase in the amount of debt would be no indication of the failure of the Act, if most of it incurred since the passing of the Act were productive debt. But unfortunately there is no evidence to show that the debt incurred since the passing of the Act, is productive to any larger extent than before. Mr. Darling says that over 95 per cent. of the debt is unproductive, and hence a dead-weight. If it be contended that the purpose of the Act was only to check the indebtedness of the "notified agricultural tribes" and not of others, even then there is no reason to believe that the purpose has been achieved. Statement XXVII appended to the Land Revenue Report, which gives mortgages for over a series of years mentions the area of land mortgaged by agriculturists, but does not say how much was mortgaged by non-agriculturists and does not facilitate its calculation for purposes of comparison, because in col. 5 it mentions the *cultivated* area mortgaged and in col. 8 the *total* area mortgaged by agricultural tribes and the *total* includes both cultivated and uncultivated. But for present purposes we may go by Statement XXV which gives the total area mortgaged in the year ending 15th June 1925 by agriculturists as 297,178 acres and by non-agriculturists as 50,734. The load of debt borne by the agriculturists cannot be very different from being about five-sixths of the total agricultural debt. The conclusion seems to be irresistible that the Land Alienation Act has not succeeded in one of the main and fundamental objects professed by it *viz.* checking the growing evil of agricultural indebtedness.

Why did the Act fail?

[*The Servant of India*, dated 4th November 1926.]

V.—AGRICULTURIST'S CREDIT.

In the last section we saw that, despite the Land Alienation Act, the agricultural debt in the Punjab had greatly increased. The advantages expected of restrictions on alienation were thus set forth in the Government of India's Note on Land Transfer and Agricultural Indebtedness:—"Those who would impose restriction of one kind or other on private transfer of land have two objects in view: (1) curtailment of the agriculturist's credit and hence his indebtedness, and (2) the restriction, in whatever degree is thought desirable, of alienation of the agriculturist's land. In other words, they wish to attack the problem of indebtedness on both sides, to minimise on the one hand the inducement to debt and on the other the worst consequences of debt." (p. 131) What Mr. Darling has so emphatically reiterated in his book, that debt follows credit, was recognised as long ago as 1879. For in that year the Famine Commission remarked: "It is commonly observed that landholders are more indebted than tenants with occupancy rights and tenants with rights than tenants-at-will—a result obviously attributable to the fact that classes which have the best security

to offer are the most eligible customers of the money-lenders" (*ibid* p. 131). It was, therefore, felt that in order to check indebtedness the agriculturist's credit must also be reduced. "It was not, however, to be extinguished; for the Government of India Note proceeds: It may be accepted as an axiom that the agriculturist must borrow money in India as elsewhere to carry on his business and the advocates of restrictions on transfer have, it is understood, no desire to see the money-lender entirely dispensed with or the cultivator unable to borrow" (*ibid*. p. 135). The promoters of the Punjab Land Alienation Act, accordingly, sought to reduce, not to abolish, the agriculturist's credit and this was to be secured by restricting, not forbidding, alienations by agriculturists. The Act permitted the agriculturist to borrow from the non-agriculturist money-lender, but under certain limitations. Usufructuary mortgages by agriculturists to non-agriculturists were limited to a maximum period of twenty years within which the usufruct extinguished both the principal lent and the interest thereon. The consequence of this was that a money-lender would lend only such amount as, with the interest thereon at the rate agreed to in the contract, can be recouped by the usufruct of the land within twenty years. The loan would not bear any direct relation to the sale value of the land mortgaged. In this form of mortgage the period of temporary alienation is fixed but not the rate of interest. Another form of mortgage was also permitted by the Act in which the rate of interest was limited but not the period. An agriculturist was free to give his land in usufructuary mortgage for an indefinite period of time; only he retained the right of occupancy and was liable to pay a net rent not exceeding the land revenue. The rent, which was to cover the interest on the loan, was thus fixed, but not the period for which the alienation might run. In this case the mortgagee becomes the landlord, and the mortgagor becomes the tenant with occupancy right and a fixed rent charge. Here also the amount lent does not bear any direct proportion to the selling value of the land. These then are the limitations on the agriculturist's credit imposed by the Act.

It must however, be remembered that these limitations apply only to the credit of the agriculturists, *i.e.*, members of the tribes notified by the Government as agricultural tribes, with non-agriculturists. But as between agriculturists themselves the limitations do not apply. An agriculturist can borrow from another agriculturist right up to the hilt of his full credit, *viz.*, the sale value of his land. The natural tendency of this arrangement is to defeat the provisions referred to in the previous paragraph. The agriculturist's credit with another agriculturist is undiminished and hence the scope for indebtedness.

The strength of this tendency depended on the extent of money-lending by agriculturists themselves. A large number of the notified agriculturists are Mussalmans, whose religion forbids money-lending. The Hindu and Sikh agriculturists alone could practise money-lending and they had therefore, a monopoly. Though such money-lenders were not unknown in the days when the Act was passed, they were comparatively few in number. Both these circumstances tended to reduce the agriculturist's credit in the early days of the Act. But things have since changed. Mr. Darling observes on this point: "wherever, therefore, there are returned emigrants, ex-officers or large holders, who are not Muhammadans, the agriculturist money-lender will be found; and in these areas the whole mortgage debt is rapidly passing into his hands. The most prominent type is the Sikh Jat of the Central Punjab, who has some of the uncanny flair of the lowland Scot. Round Jullundur he has already ousted the *Sahukar*, and in

Amritsar, Ludhiana and Hoshiarpur he meets him on almost equal terms. In the South the Hindu Jat of Rohtak, a district full of ex-officers, runs him close and here and there even the Muhammadan Jat is finding ways of equating the the precepts of religion with the claims of business" (p. 229). But if emigration, soldiering and high prices have given the agriculturist money-lender his means, it is the Land Alienation Act that has given him the opportunity. "The *Sahukar*, deprived by the Act of the security of the land, can only lend up to the limit of what can be repaid from the produce; but the agriculturist money-lender, to whom the Act does not apply, can afford to lend up to the value of the land, and with land selling at inflated values, this limit is considerably higher." (*ibid.* pp. 229-30). The net result of the Act was that "for a time the rapid increase in debt was kept in partial check by the Land Alienation Act, but with the tendency of all protective legislation to defeat its own objects, the Act fostered the growth of the agricultural money-lender; and borrowing became quite as easy as ever" (*ibid.* p. 280). Mr. Darling thus sums up his final opinion about this class of money-lenders: "But, when all is said and done, the growing influence of the agriculturist money-lender, which is largely the result of the Land Alienation Act, can only be regarded with apprehension" (*ibid.* p. 231). It will thus be seen that the Act, by permitting unrestricted alienations between the agriculturists, tended to retain undiminished the agriculturists' credit.

It is difficult to estimate with any degree of accuracy the extent of the growth of money-lending by agriculturists. The Census Report no doubt gives the numbers of agriculturists who practise money-lending, but the Census definition of the agriculturist is different from that of the Land Alienation Act. The Census Report, however, says that "there is a strong probability, therefore that the number of money-lenders in the Punjab has decreased during the 10 years 1911-1921." (Para. 237.) The money-lender referred to here is the "bania" and the decrease therein is 10.4 per cent. We have already seen that the agricultural debt has increased, and here we find that the professional money-lenders have decreased. It must then mean that a considerable amount of money lending is being done by agriculturists. The statistics of land mortgages to agriculturists and to others, given in Statement XXVII in the Punjab Land Revenue Report (1925) gives an indication of the extent of money-lending by agriculturists. In 1901-2 the total area mortgaged to agriculturists was 122,569 acres, while the area mortgaged to others was 73,345, the corresponding figures for 1924-25 being 269,053 and 78,859. It will be noticed that while the land mortgaged to non-agriculturists has remained more or less constant, that mortgaged to agriculturists has more than doubled during this period; and in 1924-5 as much as 77 per cent. of the total mortgaged land is mortgaged to agriculturists. It is therefore, obvious that the bulk of money-lending is now in the hands of agriculturist money-lenders. It is only in the Western Punjab, where 90 per cent. of the agriculturists are Muhammadans and, where, according to the Census Report, "the number of money-lenders has decreased very much during the last decade" that the mortgage by agriculturists is much less than by others and the agriculturist's credit suffered a real and permanent restriction. In other parts the agriculturist's credit remains as high as ever before, and it is therefore then surprising that the Act failed to check agricultural indebtedness.

[*The Servant of India, dated 11th November 1926.*]

VI.—EXPROPRIATION OF THE AGRICULTURISTS.

THE second result anticipated by the Government of India Note as a consequence of the imposition of restrictions on alienation of land was "to minimise the worst consequences of debt,"—the expropriation of the agriculturist from his land and his reduction from the independent position of peasant proprietor to that of tenant or landless labourer. The inevitable consequence of expropriation is the accumulation of large properties in the hands of fewer landlords. On this aspect of the matter, Sir Charles Rivaz said during the debate on the bill: "I am not prepared to say whether the accumulation of large landed properties in the Punjab is, from a political point of view, desirable or not; but I do say most distinctly that it is no part of our scheme to encourage the growth of large properties at the expense of the small proprietor. I repeat that our main object is the preservation, not the extinction, of the small proprietor" (19th Oct. 1900). The critics of the Bill argued at the time that it would not prevent the expropriation of the small agriculturists or the growth of large estates at the expense of the small owners; only these agriculturists would be expropriated by another set of agriculturists, particularly the money-lenders among them. On this question Sir James Lyall had observed that "even transfers from one agriculturist to another agriculturist, so far as they are due to unsuitability of our law and civil court procedure to the conditions and circumstances of the poorer agriculturists, are a serious reproach to our system, and tend to make our Government unpopular." (Government of India Note, p. 94). And Sir Charles Rivaz himself said in his speech introducing the Bill: "Moreover, since even *bona fide* agriculturist is not infrequently also a money-lender, we think it desirable to retain power to prevent such men from buying up land in a village where they would come in as outsiders and constitute a foreign element in the village community." Thus though a concession was made in the case of the agriculturist money-lender of the same village, the general object was to prevent the expropriation of the agriculturist even by another agriculturist.

No comprehensive enquiry seems to have been made to find out how far the Act has been successful in these respects. One has to guess from indirect evidence, and the conclusions are at best unsatisfactory and inconclusive.

One of the results of expropriation should be an increase of tenants, tenancies, and landless labourers. The Census Report, however, says that "the number of farm servants and field labourers has actually decreased from 1,192,000 in 1911 to 1,134,000 in 1921, and quotes Mr. H. Calvert's opinion that "the decline in labourers and the increase in the number of tenants indicate a tendency to rent the land rather than cultivate through hired labour" (p. 354). Perhaps the decrease is to some extent explained by the fact that the extension of irrigation by canals has brought more land under cultivation and many landless labourers were drafted on there as tenants. Perhaps the Great War and the influenza epidemic of 1918 might have to some extent contributed to this effect. Increase in tenancy is however widely admitted. This also is partly due to new land being brought under cultivation and the more prosperous owner-cultivators letting their lands on rent. In part it must be due to the expropriation of the owners by sales and mortgages, which are steadily on the increase, as under :

The following table gives average sales and mortgages by agriculturists in thousands of acres:

		Sales	Mortgages
4 years ending	1906	150	190
5 do. do.	1911	170	240
5 do. do.	1916	188	264
5 do. do.	1921	160	260
4 do. do.	1925	178	288

The causes of sale and mortgage are many, some prudential and others not. When the consideration money is reinvested for productive purposes, the status of the landowner remains unchanged, but if it went to repay an old loan or ancestral debt or was otherwise spent away, the owner was reduced, ultimately if not immediately, to the position of the tenant. We have already quoted Mr. Darling's estimate that the productive debt is less than 5 per cent. of the whole debt. Sardar Balwant Singh's interesting study of the Kot Kapura Utar Assessment Circle discloses that over 64 per cent. of the debt was on account of previous debt, and less than 10 per cent. on what may be called productive (p. 20). The Rev. E. D. Lucas in his "Economic Life of a Punjab Village" estimates that the debt due to family ceremonies, inherited debt and interest amount to over 67 per cent. of the total debt. (p. 101). Not that the rest is all productive either. Under these circumstances, in a large majority of cases, sale of land can only mean that the seller has lost land for ever and has become a tenant. The same may be said of mortgages also. As Mr. Ram Lall Bhalla points out in his very exhaustive, "Economic Survey of Bairampur," it is only the large landowner who has a surplus to sell that has profited by the high prices of agricultural produce, while the small owner, who has no surplus to sell but who is obliged to pay higher prices for his wants, which he does not produce, has suffered heavily on account of the high prices (p. 86). It is only the large landowners; therefore, that are able to redeem their mortgaged lands, lend money, take land on mortgage, and ultimately buy it up, while the poorer small owners must be losing ground.

It must be remembered that most of the transactions by way of sale or mortgage are now as between agriculturists to whom the Land Alienation Act does not apply. The agriculturist moneylender is unfettered by the Act and has besides a virtual monopoly of money-lending. Even as early as 1903 the Report on the Land Alienation Act noted that "one of the dangers foreseen in passing the Act, viz, the rich zamindar turning money-lender with the sole object of enriching himself, has begun to appear" (para. 15) and that "the Jat zamindar money-lender was reported to be more exacting than the ordinary bania (paras. 15 and 29) Mr. Darling considers that the agriculturist money-lender "is, if anything, worse than his professional rival" (p. 228), that because the Land Alienation Act does not apply to him, "he is, therefore, in the stronger position of the two; and ultimately he is the more formidable, for his object is the land and to obtain it he will press a client till he is compelled to sell" (p. 230). Mr. Darling quotes a zamindar who said to him that "if the Land Alienation Act has rescued the sheep from the wolf, it has only been to hand him over to the butcher" (p. 230). We have thus all the elements necessary to stimulate the expropriation of the poorer agriculturists: the needy and improvident landholder is there; his credit with the agriculturist money-lender is unimpaired, and the large holders, with surplus to sell, have profited by the high prices and have money to lend and are as anxious as the most land-grabbing professional

money-lender to lend money and grab the land, and the Land Alienation Act gives no protection to the poorer agriculturist as against the more rich and powerful ones. Under these circumstances it would be very surprising if, contrary to the anticipations of Sir Charles Rivaz, the Act did not "encourage the growth of large properties at the expense of the small proprietor." As Mr. Calvert remarks, the repugnance of Muhammadans to invest money in interest-bearing securities is an additional force driving them into the purchase of land. The result of this is best seen in the Western Punjab, where the big landlords, according to Mr. Darling, have in the last twenty years, since the Land Alienation Act gave the chance, sometimes doubled their acres (p. 113). Mr. Ram Lall Bhalla in his "Survey of Bairampur" says of the Act that "it has failed to save and protect the poor and helpless zamindars; land is still passing out of the hands of the poor into those of the rich; the bigger fish have eaten and are eating up the smaller ones, though the period of their struggle for existence has been prolonged."

Mr. Calvert contests this view. In his most valuable book, "Wealth and Welfare of the Punjab," he says that the increase in sales—and the same applies to mortgages—does "not indicate that there is any tendency for agriculturists to part more freely with their land" (pp. 136—7), and gives some figures, of which more anon, to show that "these tribes are now actually regaining land" (p. 137). These two do not mean the same thing; it does not follow that because agriculturists are not parting with their land in favour of non-agriculturists, therefore they are not parting with land at all; they may be doing so quite freely in favour of other agriculturists. And we have seen that there is reason to believe that the process is going on unchecked by the Act. Mr. Calvert justifies his view that the agriculturists are regaining land by comparing the acreage sold by them with that sold to them; by adding up the area redeemed by and mortgaged to agricultural tribes and comparing it with the mortgages by them, and attributes the result to the Land Alienation Act. In support of his contention he gives the figures of sales and mortgages which, as brought up to date, are extracted below:—

Average sales by and to agriculturists in thousands of acres and the gain or loss

Average for		Sales by	Sales to	Balance
4 years ending	1906	150	149	—1
5 do.	1911	170	178	8
5 do.	1916	188	217	29
5 do.	1921	160	185	25
4 do.	1925	173	186	13

Average redemptions and mortgages in thousands of acres.

Average for		Redemptions		Mortgages	
		by	to	by	to
4 years ending	1906	178	162	190	162
5 do.	1911	296	219	240	219
5 do.	1916	270	238	264	238
5 do.	1921	280	239	260	239
4 do.	1925	222	266	288	266

Assuming for the moment the correctness of this method of calculation, these figures certainly justify Mr. Calvert's view that the agricultural tribes as a whole are gaining at the expense of the non-agricultural tribes. It is noteworthy however that during the last four years there has been a remarkable change in the tendency. While the sales to agriculturists during the period have remained

practically the same as in the previous period, the sales *by* agriculturists have gone up, thereby reducing the balance in favour of them. Similarly, in the matter of mortgages, the redemptions, which have always exceeded either of the other two transactions, have now fallen below either of them. Apparently there are other causes than the Land Alienation Act controlling the fluctuations.

It is, however, difficult to understand why, in taking together redemptions and mortgages, Mr. Calvert takes into account only the area redeemed *by* the agricultural tribes but omits the area redeemed *from* them. If redemptions *by* agriculturists are adding to the land under their control, redemptions *from* them are reducing it. If, therefore, Mr. Calvert adds the redemption *by* agriculturists to mortgages *to* them, he must also add redemptions *from* them to mortgages *by* them. Statement XXVII of the Land Revenue Report gives redemptions *by* agriculturists from 1902 to date, but it does not give redemptions *from* them. The latter are given in Statement XXV, but they are only for the year under report. However taking the figures for mortgages and redemptions for thousands of acres from the Reports for the years 1921 to 1925 which are at hand we have the following:—

Year	Mortgages		Redemptions		Loss.
	by	to	by	from	
1921	311	289	382	423	63
1922	288	268	274	307	55
1923	287	269	224	257	51
1924	281	257	196	222	50
1925	297	269	199	226	55

It will be noticed from these figures that mortgages *by* agriculturists have been more than mortgages *to* them, while redemptions *by* them have been less than those *from* them, with the result that, far from gaining, agriculturists are losing over 50 thousand acres annually by mortgage and redemption, in spite of Mr. Calvert's opinion to the contrary. ('Wealth and Welfare, p. 137).

These considerations tend to the conclusion that the Act has not checked the expropriation of the agriculturists, though it limited it in favour of other agriculturists; and that it has even stimulated the growth of large properties at the expense of the smaller.

[*The Servant of India*, dated 25th November 1926.]

VII.—" AGRICULTURISTS " AND THE ACT.

Not only has it been claimed that the objects the Government had in view in passing the Act have been realised to a remarkable degree, but that the agriculturists have unreservedly welcomed the Act. In reviewing the Annual Report of the Act for 1907 the Government of the Punjab remark: "Of its popularity with the agricultural classes whose contentment and solvency are considerations of the first importance, there cannot be the slightest doubt" (para 5). The Report itself speaks in more ecstatic terms of the Act. "Everywhere the people are loud in their expressions of gratitude to Government for passing the Act, which, they say, has saved their land to themselves and their children. No member of an agricultural tribe has a word to say against it. They declare that it has not lessened the value of their land, that it has not contracted their credit to any serious extent, that it has reduced the rate of interest to solvent landowners, because now the loan is made on a business-footing and without the ulterior object of obtaining possession of the land: that it has greatly encouraged thrift by making it less easy for a reckless landowner to raise money on his land: and that it has led to a very marked

decrease in the ruinous litigation, which was the bane of the Punjab peasant." (para 32). This description, perhaps exaggerated even in 1908, seems now to require considerable modification. Solvency has, it may be admitted, increased on account of the rise in the value of land and therefore, of assets; but that good result is in no way due to the Act. On the other hand unproductive debt has increased, and the Act seems to have done but little to check it. The unproductive nature of most of the debt does not encourage the belief that the Act has materially promoted thrift. Credit, far from diminishing, has, thanks to the rise of the agriculturist money-lenders, stood as high as ever. Mortgages of land by agriculturists are increasing every year. As for the rate of interest, it does not seem to have come down very much. The Report of the Act for 1902 quotes the Dy. Commissioner of Sialkot who says: "As far as money-lenders in a small way of business are concerned, the Act is considered comparatively harmless, because at sowing time they make small advances of grain and, on the ripening of the harvest, receive back fifty per cent. or more in excess of the quantity advanced" (para. 31). According to Mr. Darling, 'the peasant proprietor of the province can hardly pay less than 15 per cent. on his debt' (p. 218). The Rev. Lucas reports that the agriculturists complain that "owing to the operation of the Land Alienation Act, they could not borrow easily. Sometimes when in sore need, they were refused help from all quarters, or if help was received, they had to pay much higher rates of interest than a few years back." Again he writes, that as a result of the Land Alienation Act, "the prosperous" have adopted a new function, and we now have a class of 'zamindar' money-lenders. They charge a still higher rate of interest, because they have little competition to face." (Economic Life of a Punjab Village. pp. 96—7). Says Mr. Bhalla in his Economic Survey of Bairampur District:—"On account of the operation of the Land Alienation Act, the non-agriculturist money-lender charges interest at as high a rate as Rs. 18-12-0 per cent. For the loans made on *bahi*, the account book of the money-lender, higher rates are charged than those made on a written and legal deed or document" (p. 115). Sardar Balwant Singh in his "Mortgages of Agricultural Land" says that "money-lender agriculturist-mortgagees" allow the "mortgagors to cultivate the mortgaged land at cash rents equal to calculated interest at 12 per cent., 15 per cent., and sometimes 24 per cent. on the consideration money." (p. 10). Let it be noted that these rates refer to secured debts; they are higher on unsecured ones. From these references it does not follow that the rates of interest have gone down, that the agriculturists are any better situated in this respect than non-agriculturists and that the Land Alienation Act, whatever other benefits it may have conferred, lowered the rates of interest.

The Report of the Act referred to above says that the value of land has not been lessened. Certainly it has gone up almost phenomenally. But the agriculturists do not seem to get the full benefit of it. The Report of the Act for 1906 says that "usually the most important matter discussed in the district report is . . . the alienation of land in cases where indebted zamindars owning mortgaged land desire to sell a part of it in order to raise money to redeem the whole or part of the rest, and it would appear from the reports that great care is always bestowed on such cases. Full enquiries for zamindar purchasers are made, the *xiladar* agency being used more frequently than was formerly the case. But zamindars seldom make an offer which can be accepted and the terms of the mortgagee are usually to the enormous advantage of the vendor." (para. 10). And yet Deputy Commissioners were told not to sanction such alienations.

because, says the Financial Commissioner "we do not want to get the zamindar a good price for his land, but to prevent his parting with it" in favour of the non-agriculturist. This is not mere ancient story. In 1922 Mr. Bhalla repeats a story apparently with approval and not as an exceptional accident. "Muhammad Bakhsh of Kutubpur declared in the presence of a large number of villagers that he had actually suffered badly on account of the Act. He was and still is heavily in debt, on which interest is accumulating at a rapid pace. He desired to round off his affairs by selling a portion of his land. The highest price offered was by a non-agriculturist and he applied for permission to transfer the land. "I spent about Rs. 50, mainly in the shape of gifts," said he, "and yet the application was not granted. Interest is accumulating fast on my debts and I do not know how to face my financial difficulties" (p. 10). Mr. Bhalla comes to the deliberate conclusion that, "taking the case of the heavily indebted and helpless zamindars alone, it may be repeated that they would certainly be better off if there were no Act, for they would then be able to sell to the highest bidder. The zamindar who is well off is not affected by the Act one way or the other." (p. 111), Dr. Lucas tells a similar tale. "Again some of the 'zamindars' in other villages near by, complained of the non-competitive prices they obtained for their land. When they were prepared to get rid of their debts by selling part of their land their 'zamindar' brethren offered them far less than the prices to be obtained in the open market" (p. 97). The Government frankly admit this. Says the Financial Commissioner in his Report for 1902. "It may be that while Banias will not be able to buy agricultural land at all, zamindars will be able to buy it cheaper than if the Act had not been passed." And almost cynically remarks: "This is not to be regretted" (para 50). The Act does not come to the help of the agriculturist when he incurs the debt; but when he is compelled to part with his land to discharge it, the Act narrows his market and reduces his price to some extent.

We have already seen in a previous section how little the claim is borne out that the loans since the Act were made "on a business-footing and without the ulterior object of obtaining possession of the land," how the agriculturist money-lenders were as much after the land as the *bania*, and how the agriculturists were being expropriated by other agriculturists. The promoters and defenders of the Act were not unaware of these effects of the Act. But Sir Charles Rivaz consoled himself that "the land, though lost to the individual, is preserved to the tribe" (Imperial Council Progs. 19-10-1900). Mr. Darling also shares the same consolation; for he says "if there is little to choose in method between the *sahukar* and the agriculturist money-lender, both politically and socially the latter is less of an evil; for, on the whole, it is better that land should pass into the hands of those who can both cultivate and defend it than into the hands of those who rarely do either" (p. 231) Mr. Calvert goes further and says that "in a country where the means of livelihood are divided into hereditary pursuits, there is more economic objection to land passing into the possession of non-agriculturists than there is to its accumulation in the hands of hereditary agriculturists" (p. 14)). That may be the case from the point of view of Government. But to the dispossessed peasant it cannot be much of a consolation to know that the person who pressed on him a larger amount than a *bania* would have lent, but charged him the same high usurious rate of interest as the *bania*, tricked him the same way and ultimately dispossessed him, was another agriculturist and not a *bania*! "It may be supposed," says Mr. Darling, "that the

Jat would be more merciful of the two, as he is dealing with his own kith and kin. This however is not the opinion of the countryside. There is truth in the old saying. 'The cock and the crow nourish their families; the Jat and the crocodile destroy them' (p. 230). If the agriculturist had borrowed from the *bania*, he could at least look up to the Dy. Commissioner to intervene in his favour; but having borrowed from a brother agriculturist, he is left absolutely unprotected.

The Act does provide a number of advantages to the agriculturists, but most of them are relative; they are advantages as against the non-agriculturists, but not as between agriculturists themselves. And the great bulk of transactions are now as between agriculturists. Sardar Balwant Singh's Enquiry shows that out of 4,498 mortgages in Kot Kapura Ubar Circle, as many as 3,419 were between agriculturists, and in all these cases the benefits conferred by the Act are inoperative. There were only 68 cases of agriculturists mortgaging to non-agriculturists, and only these profit by the Act. The only absolute advantages that accrue to the agriculturist and which he cannot deprive himself of under any circumstance, are the retrospective cancellation of conditional sale clauses in all mortgages and the exemption of their lands from sale in execution of court decrees. The first advantage has been extended by Sec. 10 of the Act to non-agriculturists also, though not with retrospective effect. As for the second, the Act gives statutory form to the previous practice by executive action. Even before the Act, sales of land in execution of court decrees required the sanction of Commissioners, which was rarely given and "sales in execution were almost unknown." Under these circumstances it would be rather surprising if the small peasants—and they form the majority of agriculturists—welcomed the Act unreservedly. As to their attitude towards the measure, the first Report on the Act has the following: "Apparently the general idea that got abroad was that Government had passed an order that zamindars must not alienate their lands to banias: in the current vernacular *hukm nahin*. This idea is not an unwholesome one in itself, nor is it widely at variance with the real intentions of Government. That this supposed fiat has at first met with acquiescence and apparent obedience, is some testimony to the soundness of the assumption on which the whole experiment rests, viz., that the measure is well suited to the state of society which exists among the peasants of the Punjab" (para. 20). The poorer people did not realise the implications of the Act, but, being brought up in a hopelessly subservient atmosphere, quietly acquiesced.

There is no doubt that the well-to-do agriculturists welcomed the Act; not because they were in need of protection, but because the Act gave them preferential facilities to purchase land which were denied to non-agriculturists. The very first Report of the Act expresses surprise that instead of notified tribes complaining against inclusion, excluded tribes have complained that their powers of alienation were not restricted! Sir Charles Rivaz, the Lieut.-Governor, in reviewing the Report on the Act for 1906 remarked that "great caution should be exercised about extending the agricultural status to tribes * * * whose chief object in wishing to be notified as "agricultural" is not for protection, but in order to obtain greater facilities for acquiring land from agricultural tribes" (para 3). The same matter comes up again and again in other reports. The first Report on the Act has the significant remark that the "Act has generally been well received by the well-to-do agricultural community." It may

be added here that as recently as August last the Brahmana Conference at Simla passed a resolution that all Brahmans in the Province should be declared as "agriculturists" and "all restrictions imposed on them under it (Land Alienation Act) in regard to the purchase of land be removed."

It is the richer and educated among the notified agriculturists who are purchasers of land, not sellers of it, and to whom the Act gives facilities for purchase, that pretend that the agriculturists as a whole consider the Act as their Magna Charta. The poorer agriculturists have not yet found voice; or a different story may be heard. The Act is anti-*bania*, but not pro-agriculturist; and, as the Deputy Commissioner of Montgomery remarked, "the Act is all in favour of the big zamindar." (Report on the Act, 1905, para 48).

VIII—POLITICAL CONSIDERATION.

In the previous articles on this subject we discovered that the Act did prevent the transfer of agricultural land from the notified tribes to the non-notified ones, that on the other hand the notified tribes gained at the expense of the others; but that it failed in its two fundamental objects, namely the mitigation of the evil of agricultural indebtedness, and the expropriation of the agriculturists; that the Act was hailed only by the richer members among the notified tribes to whom it gives preferential facilities to buy up their poorer tribesmen and that the poorer agriculturists obtained precious little advantage of it, since such advantages were inoperative as between members of the agricultural tribes, among whom the bulk of the transactions took place. So much then for the economic objectives of the Act, which, however it must be remembered were subsidiary to the "political" purpose of the Act. It may be recalled that the statement of objects and reasons said that the expropriation of the hereditary agriculturists . . . has been regarded for years past as a serious political danger. It is recognised that the danger is accompanied with bad economic results."

In the Legislative Council, Mr. C. L. Tupper claimed that "it is the political reasons which have most strongly influenced my judgment in this important matter." Sir Charles Rivaz, though he devoted the best part of his speech in introducing the bill, to economic considerations, ended up finally by declaring that the expropriation of the sturdy yeomen of the Punjab as "an ever-increasing political danger." (27/9/1899). Mr. Tupper was more explicit. "We still have the lands of the Punjab plains held largely, though not exclusively, by tribes of bold tradition and high spirit, whose courage and spirit of adventure command the hearty sympathies of our race, but whose inherited qualities, formed in times of war and depredation, are far better suited to success in the field of battle than in the court of law. No one wishes men of this type, whose courage in our cause has again and again earned our gratitude, to be dispossessed of their ancestral lands." Lord Curzon clinched the matter when he said, "we cannot afford to see the yeomen farmers of the Punjab the flower of the population and the back bone of our native army dwindle and become impoverished before our eyes. The "political" object of the act was, therefore, to save the tribes that contribute recruits to the army from losing their land. This object however finds no direct expression in the body of the Act; which only speaks of agricultural tribes to be declared by Government notification. It is secured by notifying the tribes which are of military use to the Government.

In the face of the unequivocal statements quoted above from the authors and sponsors of the Act, it is rather surprising that anybody should suggest, as apparently Mr. Calvert does in his cross-examination of Prof. Gulshan Rai before the Royal Commission on Agriculture, that the Act was passed because the judiciary in the Punjab failed to uphold the customary law of the province and

that a similar law was not passed in Madras because of the strength and adequacy of the joint family system there.

Has the act succeeded in preserving the members of the military tribes from expropriation and indebtedness? Perhaps it did if we take all the notified tribes together, as one unit. It has not, if we take the tribe and the individual as the unit. The eight special annual reports on the working of the Act indicated the gain and loss of each of the notified tribes. The Jats gained at the expense of the Rajputs and the Hindu Jats at the expense of the Muslim. (Para 29 of 1903 and para 28 of 1904) Similar information is not given in the subsequent Land Revenue Reports, so that it is not possible to say exactly how things stand now. We have however already seen that agriculturists continue to be indebted and expropriated and since the great bulk of the notified tribes are military tribes, a good number of the victims must be members of these tribes. The Act must be pronounced to have failed in this matter also.

Here again, though Sir Charles Rivaz and the Government may console themselves that "the land, though lost to the individual, is preserved to the tribes", it is no consolation to the Muslim Rajput to know that his misfortune was due to a Hindu Jat and not to a Hindu bania. That which really chills and smothers his "bold tradition and high spirit" is the misfortune itself of debt and dispossession.

IX—UNDESIRABLE CONSEQUENCES OF THE ACT.

Even in the matter of protecting the military agriculturist from expropriation the Act did not go far enough. It was precisely because expropriation of the yeomen farmers of the Punjab had, according to the Government, become serious that the Act was passed to check it. Which means that an appreciable number of these yeomen had become "reduced from the independent position of peasant proprietors to that of tenants holding under landlords or landless labourers." This process continued even after the passing of the Act, only the landlords thereafter were other members of the notified tribes. How about these dispossessed men? The Act gives no protection to such unfortunates. The Government might have reserved the canal colonies for them. But perhaps financial considerations stood in the way.

Far from ameliorating the condition of the poorer agricultural classes, the Act has had consequences which are sometimes anomalous, sometimes from the Indian point of view, regrettable and sometimes, even deplorable. "A, a Saini has his home in Amballa district but owns some land in the Amritsar district. "Saini" is declared "an agricultural tribe" in the Amballa district but not in Amritsar district; A is a member of an "agricultural tribe" in the Amballa district. "(pp. 39-40, the Punjab Land Alienation Act, by S. Gurcharan Singh 2nd Edition, 1907.) A Rajput pleader in Lahore is an agriculturist, but not a Kamboh mason working in the Amritsar district, while a Syed of Gujrat keeping a shop in Lahore is an agriculturist. (p. 42, *ibid.*)

In the district of Kulu in the Himalayas, if a Brahmin marries a Dagi woman, he is outcasted and he becomes Dagi which is notified as an agricultural tribe and he therefore becomes an agriculturist! For the Financial Commissioner had ruled that the status of the party when the proceedings came to him should determine whether he was to be classified an agriculturist or not! (para. 5, Report for the Act for 1906.)

Quite a number of non-notified tribes applied for inclusion among the notified and the Report of the Act for 1907 remarks on the attempts made by certain tribes and castes to change their designations for the purpose. The Government ordered that "no tribe ought to be notified, which, although it contains more or less *bonafide* agriculturists, is not as a tribe a true agricultural one and desires to come under the Act not

for protection from professional money-lenders but in order to obtain facilities for acquiring land from other tribes." (para. 7, Report of Act for 1906.) Under this ruling not only are *bona fide* agriculturists penalised but brains and enterprise are also impeded in their application to land. In his final speech on the third reading of the Bill, Lord Curzon recognised the danger of "excluding as a purchaser the *bona fide* cultivator who may not happen to fall within the agriculturist definition." The Financial Commissioner admitted in 1908 the stagnating effect of the Act. The Deputy Commissioner of Rawalpindi had written that "the Punjabi and Kashmiri Lohar or weaver is a man of pluck and enterprise, who travels freely and takes service under Government often in the guise of *gakhhar Aman* etc. Apart from this, the general rise in wages has given wealth to a class which will no longer submit tamely to the hectoring of ancient proprietors of the village. I see no harm in sanctioning alienations by worn-out stocks to these more vigorous shoots and believe that a declaration of policy might usefully be issued by the Financial Commissioner in regard to free sanction of alienations in favour of Musalman *Kamnis* and Kashmiris." Upon which the Financial Commissioner commented that "the land-owning community in Rawalpindi is a very mixed one and there is no reason why transfers to superior artisan tribes, Lohar and Tarkhan, should not be sanctioned freely." The same subject was mentioned by the Dy. Commissioners of Jhelum and Multan and consequently, the Financial Commissioner proposed to Government an addition to the Circular letter No. 3441, dated the 5th June 1901, the object of which was to make it easy for thrifty members of the artisan classes to become owners of small plots of land. (para. 4, Report for the Act of 1906.) There is no reason to believe that such thrifty and deserving members are not found in the tribes now not notified, and why they should be kept out from owing land is not clear.

Of the hereditary landowners even Mr. Calvert, a protagonist of the Act, entertains no flattering opinion. "There are big landowners in the Punjab, but there is not discernible anything approaching that same zeal or enthusiasm amongst them which brought such great advance in wealth in England." (p.v, Wealth and Welfare.) Mr. Darling rates them no higher when he compares them with the townsmen. "In more than one district the most progressive landlord will be found to be a non-agriculturist, and in the canal colonies, though he may be as much absentee as the Zamindar, he looks after his land as he would after any other kind of investment, and occasionally attempts to develop it, which a member of the landed gentry rarely tries to do." (p. 189, The Punjab Peasant.) Both Mr. Calvert and Mr. Darling desire that the new town-bred intelligentsia should not only have access to land but should be persuaded to go to it. But with this Act, the door is open only to the intelligentsia from among the notified tribes, but not others. But even this is being diverted under the recent policy of the Punjab Government from agriculture to Government service.

These consequences may be regrettable but there are others which seem to be deplorable. The Act has cut up the people of the Punjab into two parties, the urban and the rural or in other words, the non-agriculturists and the agriculturists, based not on mutable vocations and negotiable interests but on the immutable accident of birth and the arbitrary fiat of the Executive Government. This cleavage unhappily runs parallel to a great extent to the communal division, the Hindu and the Muslim and to add to the tragedy, the former are comparatively better educated and more prosperous than the latter. If there is one province in India which requires every effort to soften down communal antagonism, it is the Punjab. And yet it is here that it is being aggravated from unexpected quarters. Mr. Darling bears witness to this. "Even without the Act this co-operation between town and country would be difficult in the Punjab, since for various reasons the cleavage between the two is unusually great. In widening the gulf the Act only adds to the difficulty" (The Punjab Peasant p 188).

The duty of interpreting and applying the Act was entrusted entirely to the Executive officers and the judiciary and lawyers were excluded. The Government determine by notification who shall be agriculturists; and Dy. Commissioners apply the Act to the notified tribes, and they have very large discretionary powers. The reign of law is suspended and *mabapism* of Government enthroned in its place. The Act tends to foster a subservient mentality and stunts the growth of a virile sense of legal rights among the people. Further the Act recognises the tribe as the unit, and thereby preserves, perpetuates and promotes the narrow consciousness of the tribe and the caste and impedes the growth of the larger and undivided loyalty to the nation.

X—IMPERIAL SECURITY?

In the previous articles we saw reason to believe that the Act had failed in its fundamental and professed objects. To suppose that the failure was not foreseen by the authors of it, is to do injustice to the intelligence and capacity of the brilliant members of the "steel frame" that sat round that most brilliant of Viceroys, Lord Curzon. Even if it did not occur to them, it was pointed out to them by critics of the Bill which included Raja Harnam Singh and the then Lt. Governor, Sir Mackworth Young. Why then was the Bill passed? Was there an ulterior and unexpressed object? We are left to guess by piecing together scattered bits of relevant and significant passages and circumstances. The first significant circumstance is that the initiative for the bill did not proceed from the Punjab Government but from the Imperial Government. In his speech on the bill, Sir Mackworth Young pointed out that the proposals for restrictions on alienation were initiated by the Government of India, that such restrictions, if necessary in the Punjab, were necessary in all the provinces, that local Governments had not asked for such legislation, that such legislation was not then being enacted for the whole of India but that Punjab alone was being singled out for it. He avowed his opposition to the bill, but in the end gave a reluctant consent to it, in deference to the opinions of others. In reply he was told by Sir Charles Rivaz that "it was decided to deal first with the Punjab as being the province where the question of agricultural indebtedness was of special importance in its political aspect." There was therefore an imperial political policy behind the Act, not a purely provincial agrarian one.

It will be remembered that "the Punjab is pre-eminently a land of yeomen and peasant proprietors," with no conspicuous territorial aristocracy in it. The critics of the bill held that as a result of it, the smaller fish would be swallowed by the larger and land would tend to accumulate in the hands of the few from among the agricultural tribes. Sir Charles Rivaz denied that this was the intention of the bill, but prefaced it by the significant statement, "I am not prepared to say whether the accumulation of large landed properties in the Punjab is, from a political point of view, desirable or not." We have seen that one of the results of the Act was accumulation of large landed properties. The Government of India "Note on Land Transfer and Agricultural Indebtedness" (1895) has some interesting remarks. The Note quotes with approval the observation in the Settlement Report of Raipur that "the duties towards Government . . . which are inseparable from the station of proprietorship can ill be performed by non-resident *Banias* who are daily absorbed in account books. "(p. 90) Again," so far as we can draw any conclusion on this part of the subject from the evidence before us, we may perhaps say that the substitution of a new class

of landholders for the old has a tendency everywhere to weaken the administration; that the relation of the landholding class to money-lenders, especially in the Punjab, Bombay, Ajmere and parts of Berar, the Central Provinces and North Western Provinces, are embittered; that such embitterment is already manifesting itself in the form of a marked decline of good feeling towards the Government in the Punjab and that experience shows that wherever this embitterment exists, it is likely to lead to serious embarrassment of the Government in times of disturbance or war." (p. 940) These passages seem to give clue to the inner mind of the Government: It was not to save poor, simple-minded and ignorant agriculturists from indebtedness and expropriation, but to strengthen the hold of the administration on the people, and to save the foreign Government from embarrassments in times of war or disturbance; in short, to ensure the safety and security of the Government and not particularly the well-being of the people. The security of the foreign Government depended greatly on a strong and loyal army; and the Indian army was mostly recruited from the Punjab, and hence the military tribes of that province must be kept not only free from contamination by the democratic influences of the *urban* intelligentsia but duly subservient and submissive to the authorities. This purpose would be greatly facilitated not only by a policy of Governmental "mabapism" but also by the creation of a territorial aristocracy, which, as Lord Curzon said in his address at the Mayo College, Ajmere, "is bound up with the British Government in this country, and stands or falls with it." It was not, therefore, bad policy to facilitate and encourage the accumulation of land in the hands of fewer and fewer of the conservative hereditary agriculturists, the "natural pillars of the State" who may be trusted to better perform those duties towards the Government which were inseparable from their station as proprietors of land. This theory more adequately explains why the bill was considered primarily as a political measure, why it was confined only to the Punjab and why the unit of the "agriculturist" for the purpose of the Act was a tribe and not the individual, and why the judiciary was kept out.

This theory, if it be true, is rather Machiavellian. But it must be remembered that the bill was passed in 1900, when the prevailing idea was still that India was a possession to be held down and exploited for the benefit of Great Britain. But the outlook has undergone a complete change since then; India is on the highway to responsible self-government, and Governments must depend more on ballot boxes than on bayonets for their safety and security. Acts and policies which were the fruits of the old out-look must be recast in conformity with the new.

XI—CONSTRUCTIVE SUGGESTION.

Whatever was the nature of the ultimate and hidden motive of the Government, there can be doubt that its professed objects were very commendable and are necessary even to-day. If the Government had in 1900 forced on the people compulsory education and inaugurated the co-operative movement, the agriculturist today would have stood in small need of protection. But as things are today, they need to be protected from being exploited by their richer and more astute compatriots, irrespective of caste, tribe or creed. The trouble with the present Act is not its professed fundamental objects, but the definition of the "agriculturist" as a person born in a tribe notified by the executive government as agriculturist for the purpose of the Act. It is not an economic definition, but a tribal and caste definition. It is surprising that neither Mr. Calvert nor Mr. Darling remark on this eccentricity. An economic definition will not only

include all *bona fide* agriculturists among the notified tribes but also among the non-notified. It will not leave out any body whom it is intended to protect. A tribal definition was advocated by Sir Dennis Fitzpatrick, Lt. Governor of the Punjab, about the year 1895. But the Committee of Revenue Officers convened by Sir Mackworth Young in 1898 advocated a semi-economic one. But the Government of India however adopted the tribal. And the only justification that can be gathered from the speeches on the bill is that since both the agriculturist and non-agriculturist money-lenders were to be kept out of land, some scope for credit must be retained for the agriculturist. The real problem from an economic point of view was and is to facilitate credit for productive purposes while restricting it for unproductive purposes. Credit must be controlled not only quantitatively but qualitatively. Education and the co-operative movement alone can effectively do that. Mr. Calvert goes farther when he says that the co-operative movement "must be supplemented by more rigorous laws against persons lending money for unproductive purposes."

A basis for an economic definition is contained in the following instruction issued by the Financial Commissioner to the Dy. Commissioners regarding the use of their discretion in permitting alienations to non-agriculturists. "If a zamindar depends entirely or mainly on his land, no alienation should ordinarily be allowed which will reduce the land he retains to less than is required for the support of himself and his family." Under the present Act this wholesome restriction will be brought into operation only when a member of a notified tribe wishes to alienate in favour of one of a non-notified tribe. But no Dy. Commissioner however benevolent, can prevent an agriculturist from parting with the last inch of his land provided that the alienee is also an agriculturist. If both parties are non-agriculturists, there is absolutely no thought of Governmental benevolence. In fact there is an almost vindictive indifference to the non-agriculturist. For instance, Sec. 10 read with Sec. 9 (2) of the Act, renders null and void a mortgage with a conditional sale clause in it if it was executed by an agriculturist even before the passing of the Act; but not so if it was executed by a non-agriculturist.

Prohibition of sale and mortgage of certain specified minimum areas by professional agriculturists obtains in many modern states all over the world and may well be adopted here. But such a method is still open to the two criticisms made by Mr. Darling on the present Act. "All protection, if continued indefinitely, weakens what it protects." (p. 187) "Secondly, it may be argued that the assistance of the town is indispensable to the development of the country, and the Act keeps them apart." (p. 188) He goes further and puts in a plea for the urban landholder. "It should be remembered, too, that the urban landowner of the future will not be quite the same as the non-agriculturist of the past who was generally nothing but a money-lender and trader combined, for in the last thirty years a new intelligentsia has sprung up in the towns, who, if they could be persuaded to study rural problems, might do something for their solution. (p. 189).

A far more effective measure, in the opinion of the writer, is a law which while placing no restrictions on alienations, yet secures to every *bonafide* cultivator, who is not the owner of his holding, an occupancy tenancy in it with a non-competitive rent in direct proportion to the Government assessment thereon. A cultivator—the word "agriculturist" may be avoided because of the specific connotation of the term in the Punjab *pace* the Land Alienation Act—should be

defined as one whether owner or tenant, who either by himself or with the assistance of the members of his family or of hired labour, cultivates the land and takes the risks of cultivation.

We shall briefly consider the implications and consequences of such a law. The definition of the cultivator includes not only the small peasant proprietor who cultivates his comparatively small holding with the assistance of his family, but also the large scale farmer who employs a number of hired people, and operates on a comparatively large area of land and perhaps himself does not handle the plough, but excludes the owner or even the superior tenant who rents out his land and takes no risks of cultivation, and is therefore merely a rent receiver. Now under the proposed law, the rents payable by cultivators to rent-receivers will be fixed as, say, equal to the Government assessment on the holding. Such a provision will effectively keep out all those speculators and investors in land whose sole object in so doing is to take advantage of the weakness and improvidence of illiterate cultivators and extract competitive rents. Only those will seek ownership of land who for the sake of security it offers will be content with the legal non-competitive rents, or who wish to become cultivators themselves and enjoy the profits of their labour. Brains and enterprise will have free access to land and production itself will be stimulated.

This method will secure more effectively the very economic objects professed by the Land Alienation Act. It will put an end to all the evil consequences of land passing from the hands of agriculturists to those of non-agriculturists, rather, from the cultivators to non-cultivators. It is true that an owner-cultivator will be free to sell his land, but the non-cultivator will have no great inducement to buy it, for he cannot get competitive rent. If the land passes to another cultivator or would-be cultivator, it is still conserved to cultivators. But even the cultivator will have no inducement to buy up a number of small cultivators, for the moment he is unable to cultivate the extended area he will be obliged to rent it to tenants, and be content with the legal rents. The tendency for the accumulation of land in the hands of fewer people will be checked. Every *bona-fide* cultivator will be either an owner, or an occupancy tenant, liable to pay a fixed rent, and (under these conditions, the individual owner will not be the worse for becoming an occupancy tenant. Also, nobody, neither cultivator nor non-cultivator, will lend much more than what can be recovered by the legal rent; thus the credit of the cultivator will be reduced absolutely and not relatively to non-agriculturists, which will in turn reduce indebtedness.

The principle advocated here is already embodied in the Punjab Land Alienation Act itself. Sec. 6 (1) (c) provides for a type of mortgage under which the owner-mortgagor retains cultivating occupancy in his holding and pays to the mortgagee a rent not exceeding the amount of Government assessment on it, exclusive of course of Government assessment and rates and cesses. This provision has been more or less a dead letter because it was one of three alternatives, and the least popular with land-grabbers and rack-renters, and also because it could apply only in mortgages as between a notified agriculturist and a non-agriculturist. If however it was given general and universal and sole application, it would have given remarkable results.

The same principle underlies the latest Bengal Tenancy Act Amendment which is still on the legislative anvil, and found partial acceptance in the Malabar Tenancy bill in Madras.

No. 6941-J.36/1377.

From

A.V. Askwith, Esquire, I.C.S.,
Home Secretary to Government, Punjab.

To

The Librarian,
Servants of India Society,
Poona, 4.

Dated Lahore, the 13th January 1937.

Sir,

With reference to your letter No. 1253 dated the 11th December 1936 I am directed to forward a set of rules issued by this Government under the Punjab Relief of Indebtedness Act, 1934. No reports on the working of Conciliation Boards in the Punjab have been published.

I have the honour to be,
Sir,
Your most obedient servant,



Under Secretary,
for Home Secretary to Govt., Punjab.

Ms.

X9(J)16(Z256)

(9)

HOME DEPARTMENT.

JUDICIAL.

The 10th September, 1935.

No. 29855.—With reference to Punjab Government notification No. 15943-Judicial, dated the 23rd April, 1935, and in exercise of the powers conferred by section 28 of the Punjab Relief of Indebtedness Act, 1934, the Governor in Council is pleased to make the following rules :—

RULES.

1. These rules may be called the Punjab Debt Conciliation Rules, 1935.
2. (i) In these rules :—
 - (a) " Act " means the Punjab Relief of Indebtedness Act, 1934 ;
 - (b) " Board " means a Debt Conciliation Board established under the Act.
3. Unless in the case of any particular Board the local Government shall order otherwise, the salary of the Chairman of a Board shall be two hundred and fifty rupees a month and that of the other members two hundred rupees each. The Chairman and the members shall be entitled to receive in addition a fixed travelling allowance of seventy-five rupees a month.
4. A Board shall have its office at such place as may be fixed by the local Government, and may hold its sittings at any place within its area of jurisdiction.
5. It may hold its sittings on all days except those which are allowed as local holidays or as holidays to all public offices in the province, but nothing in this rule shall operate to invalidate proceedings taken by a Board on a sanctioned holiday.
6. Not less than two-thirds of the total membership of a Board must be present to form a quorum. In calculating the total membership for the purpose of this rule the Chairman is to be counted, as well as the members.
7. An application for a settlement between a debtor and his creditors shall be signed by the applicant and his pleader (if any) and shall be verified at the foot by the applicant, who shall specify by reference to the numbered paragraphs of the application what he verifies of his own knowledge and what he verifies upon information received and believed to be true. The verification shall be signed by the applicant and shall state the date on which and the place at which it was signed.
8. (1) Every application for settlement between a debtor and his creditors shall be presented by an applicant in person or sent by registered post to the Chairman or to a member of the Board or to any person authorised by the Deputy Commissioner in this behalf. On receipt of the application the Board shall order the relevant details to be entered in the Register of Applications for Settlement of Debts.
(2) Every application shall be accompanied by all such documents as will be necessary for the disposal of the proceedings before the Board.
(3) A further and better statement of the nature of the claim or defence, or further and better particulars of any matters stated in any application, may be admitted by the Board upon such terms as to costs and otherwise as may be just.
9. If the Board does not dismiss the application, it shall send to all persons concerned, at the expense of the applicant, a notice by registered post (acknowledgment due), issued under the provisions of section 12 (2) of the Act, of the date and place fixed for hearing of the application.
10. If the applicant is a debtor, and the Board does not dismiss the application, the Board shall as soon as convenient cause to be posted in a prominent place at the office of the Board a notice in form I attached to these rules. It shall similarly cause to be published, at the cost of the applicant, the same notice in some daily vernacular newspaper, commonly read in the area in which the Board has jurisdiction, at least twice within one month.
11. If the applicant is a creditor :—
 - (i) the notice sent to the debtor under rule 9 may require him to submit to the Board, at least twenty-five days before the date fixed for hearing the application, a written statement signed and verified by the debtor in the manner aforesaid containing :—
 - (a) the particulars of all debts owed by him, together with the names and addresses of all his creditors ;
 - (b) the particulars of all his property, together with a specification of the value of such property and the place or places at which such property is to be found.
 - (ii) On receiving the written statement the Board shall send by registered post (acknowledgment due) a notice of the date and place fixed for hearing the application to all creditors mentioned by the debtor in his statement.The cost of issuing these notices shall be recovered by the Board from the applicant in advance.
12. On the date fixed for hearing the application, the Board, after any other proceedings it may consider necessary, shall, unless it dismisses the application, publish in the manner prescribed in the next following rule a notice in accordance with section 13 of the Act calling upon every creditor of the debtor to submit within two months a statement to the Board of all debts owed to him by the debtor.

13. (i) The notice shall be in form II attached to these rules and shall be published as follows :—

- (a) It shall be read out and explained in open session by the Chairman of the Board to all creditors who are present, and a memorandum shall be made that this has been done. The names of the creditors present shall also be recorded.
- (b) A copy of the notice shall be affixed in some conspicuous part of the place where the Board is sitting.
- (c) A copy of the notice shall be sent by registered post (acknowledgment due) to those creditors who have been named by the applicant or debtor and are not present before the Board. The cost shall be borne by the applicant, but shall be recoverable, at the discretion of the Board, from a creditor who has had previous notice of the date fixed.

(ii) If the Board has reason to believe that the applicant has not disclosed the names of all creditors, it shall further cause the notice in form II to be published at the cost of the applicant in some daily vernacular newspaper commonly read in the area in which the Board has jurisdiction, at least twice within one month of the order.

14. A certificate granted under section 20 (2) of the Act by a Board to a debtor in respect of debts due from him to any creditor shall be in form III, annexed to these rules, and shall be signed by the Chairman and members of the Board present and sealed with the seal of the Board. The certificate shall be prepared in triplicate ; one copy shall be delivered to the debtor, one copy shall be sent to the Record Room of the district in which the Board is working, to be filed in accordance with rules framed by the Punjab Government, and the third copy shall be attached to the record of the proceedings.

15. Every application for settlement made under section 9 of the Act and every application for review made under section 23 of the Act shall be stamped by the applicant with a court-fee stamp of the value of eight annas.

16. (i) For every registered notice to be sent by the Board under the Act and these rules the person at whose expense it has to be sent shall pay to the Board, before the issue of the notice, the sum of six annas.

(ii) If the applicant fails to pay the expense of a registered notice within a week his application shall be dismissed in default. But he may, within one month of the dismissal, apply to have the dismissal set aside ; and if he satisfies the Board that there was sufficient cause for his non-compliance with the order of payment, the Board shall set aside the dismissal upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the application.

17. The Chairman of the Board shall send quarterly returns of the work done by the Board to the Collector in form IV annexed to these rules.

18. The costs of and incident to all proceedings before the Board shall be in the discretion of the Board, and the Board shall at the time of every settlement under section 17 of the Act have full power to determine the amount to be paid as costs and the person by whom it is to be paid and to give all necessary directions for the purposes aforesaid.

19. Every Chairman of the Board on demand shall cause to be given a copy of any settlements made under section 17 of the Act, on payment of two annas, together with a certificate written at the foot of such copy that it is a true copy of such settlement, and such copies so certified shall be certified copies within the meaning of the Indian Evidence Act, 1872.

20. The following registers shall be kept by a Board and entered up under the supervision of the Chairman on every day that the Board holds its sitting :—

- (a) Register of applications for settlement of debts (form V) ;
- (b) Register of miscellaneous applications (form VI) ;
- (c) Register of receipts and disbursements (form VII) ;
- (d) Pay roll register (form VIII).

Form I.

FORM OF NOTICE UNDER SECTION 12 OF THE PUNJAB RELIEF OF INDEBTEDNESS ACT, 1934.

Rule 10 of the Punjab Debt Conciliation Rules, 1935.

Notice is hereby given that _____, son of _____
 estate _____, of _____, tahsil _____ district
 _____, has filed an application under section 9 of the aforesaid Act, and that the
 Board has fixed the _____ day of _____ 19 _____ at _____ for hearing the
 application. All creditors of _____ aforesaid or other persons interested should appear in
 person before the Board on the date fixed.

Dated _____ the _____ day of _____ 19 _____.

Chairman,

Debt Conciliation Board,
 _____ District.

(Seal of the Board.)

Form II.

FORM OF NOTICE UNDER SUB-SECTION (1) OF SECTION 18 OF THE PUNJAB RELIEF OF INDEBTEDNESS ACT, 1934.
Rules 12 and 13 of the Punjab Debt Conciliation Rules, 1935.

Whereas _____, son of _____, caste _____, of _____ tahsil _____, district _____, ^{debtor}/_{creditor} has submitted an application under section 9 of the aforesaid Act for the settlement of the debts of _____; son of _____, caste _____ of _____, tahsil _____, district _____, and whereas the Board is of the opinion that it is desirable to attempt to effect a settlement between the said debtor and his creditor, you as one of the all the creditors to whom the said debtor is indebted, are hereby required to submit to the Board within two months of the date of publication of this notice, a statement in writing at the Board's office at _____ on _____ of all debts owed to You them by the said debtor. The Board will scrutinize this statement at _____ on _____ day _____ when you should appear before the Board.

2. You All the creditors are also required to furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents, including entries in books of account on which you they rely to support your their claims, together with a true copy of every such document.

3. Further proceedings in this case will take place at _____ on the _____ day of _____ 19_____, when all creditors should appear before the Board.

Dated _____ the _____ day of _____ 19_____.

Chairman,
 Debt Conciliation Board,
 _____ District.

(Seal of the Board.)

Form III.

FORM OF CERTIFICATE OF DEBTS UNDER SUB-SECTION (1) OF SECTION 20 OF THE PUNJAB RELIEF OF INDEBTEDNESS ACT, 1934.

Rule 14 of the Punjab Debt Conciliation Rules, 1935.

Whereas _____, son of _____, caste _____ of _____, tahsil _____, district _____, a debtor, and _____, son of _____, caste _____, of _____, tahsil _____, district _____, his creditor parties to application for settlement of debts No. _____ of 19_____ before this Board, have failed to come to any settlement of their dispute, and whereas _____ debtor aforesaid has offered to pay _____ creditor aforesaid the sum of Rs. _____ in satisfaction of his claim of Rs. _____ in monthly quarterly yearly instalments (with interest at _____ per cent. per mensum annum), and whereas the Board having regard to all the circumstances of the case, is of the opinion that this is a fair offer on the part of _____ which _____ ought reasonably to accept, and whereas the Board is satisfied that other creditors of the debtor to whom at least forty per cent. of his total debts are owing have come to an amicable settlement with the debtor, now, therefore, we the members of the Board at _____ hereby grant this certificate to _____ under our hand and seal this _____ day of _____ 19_____ in exercise of the powers conferred on us by section 20 (1) of the aforesaid Act.

Dated _____ the _____ day of _____ 19_____.

_____ Chairman,

 _____ } (Members),
 Debt Conciliation Board,
 _____ District.

(Seal of the Board.)

Form IV.

RETURN TO COLLECTOR UNDER RULE 17 OF THE PUNJAB DEBT CONCILIATION RULES, 1935.

For quarter ending _____

1	2	3	4	5	6	7
Total number of applications made for settlement of debts.	Total number of applications dismissed without settlement.	Total number of cases in which complete settlement has been reached.	Total number of cases in which partial settlement has been reached.	Value of claims which have been compounded.	Amount for which claims mentioned in column 5 have been compounded.	Total number of certificates granted.

General remarks _____

Dated _____

(Sd.)

Chairman of Board at _____

Form V.

REGISTER OF APPLICATIONS FOR SETTLEMENT OF DEBTS.
Debt Conciliation Board at _____

1	2	3	4	5	6	7	8	9
No. of application.	Date of application.	Name and address of debtor.	Names and addresses of creditors.	Date of disposal of application.	Result giving details of settlement, if any.	Names of creditors against whom applications have been granted.	No. and date of review application, if any.	Abstract of order on review.

Form VI.

REGISTER OF MISCELLANEOUS APPLICATIONS.
Debt Conciliation Board at _____

1	2	3	4	5	6	7
No. of application.	Date of application.	Description of application.	Name and address of applicant.	Name and address of opposite party.	Date of disposal of application.	Abstract of decision.

No. 29856 (H.—Judl.), dated 10th September, 1935.

A COPY is forwarded to the—

- (1) Registrar, High Court of Judicature at Lahore, for information of the Hon'ble Judges, in continuation of Punjab Government endorsement No. 15944, dated 23rd April, 1935.
- (2) Commissioners of Divisions in the Punjab for information, in continuation of Punjab Government endorsement No. 15944, dated 23rd April, 1935.

By order, etc.,

A. V. ASKWITH,

Home Secretary to Government, Punjab.

HOME DEPARTMENT.

JUDICIAL.

The 10th September, 1935.

No. 29857.—In exercise of the powers conferred by clause (c) of sub-section (2) of section 3 of the Destruction of Records Act, 1917, the Governor in Council is pleased to make the following rules for the custody and preservation of records sent to the record room by Conciliation Boards established under section 8 (1) of the Punjab Relief of Indebtedness Act, 1934 :—

1. These rules may be cited as the Punjab Debt Conciliation Board (Custody and Preservation of Records) Rules, 1935.

2. The copies of certificates sent to the record room under rule 14 of the Punjab Debt Conciliation Rules, 1935, shall be preserved in perpetuity.

3. When the Board has completed any proceedings, it shall send the record of such proceedings to the record room of the district in which the Board is working and such records shall be preserved in perpetuity.

4. On the abolition of a Board without the appointment of a successor the records of all proceedings pending before the Board and all registers of the Board shall be sent to the record room of the district in which the Board was working and shall be preserved in perpetuity.

No. 29858—(H. Judl.), dated 10th September, 1935.

A COPY is forwarded to the—

- (1) Registrar, High Court of Judicature at Lahore, for the information of Hon'ble Judges,
- (2) Commissioners of Divisions in the Punjab, for information, in continuation of Punjab Government endorsement No. 29856-Judl., dated 10th September, 1935.

By order, etc.,
A. V. ASKWITH,
Home Secretary to Government, Punjab.

HOME DEPARTMENT.

JUDICIAL.

The 16th May, 1936.

No. 2461-J.-36/16796.— With reference to Punjab Government notification No. 28365-Judicial, dated the 24th August, 1935, and in exercise of the powers conferred by section 32 of the Punjab Relief of Indebtedness Act, 1934, the Governor in Council is pleased to make the following rules :—

RULES.

1. These rules may be called the Punjab Relief of Indebtedness (Deposit in Court) Rules, 1935, and shall apply to all deposits to be made under section 31 of the Act.

2. In these rules "the Act" means the Punjab Relief of Indebtedness Act, 1934.

3. Sums less than one thousand rupees may be deposited in any stipendiary civil court having jurisdiction within the district in which the debtor resides :

Provided that where there is more than one such court in the same town, the deposit shall be made in the court exercising the highest pecuniary jurisdiction.

4. Sums of one thousand rupees or over shall be deposited only in the court of the Senior Subordinate Judge of the district in which the debtor resides.

5. Deposits may be made either by postal money order or by the debtor in person.

6. All sums deposited shall be accounted for and dealt with according to the ordinary rules for the time being in force in the courts into which they are paid.

7. Notices under sub-section (2) of section 31 of the Act shall be served upon the creditor by registered letter, acknowledgment due, at the expense of the debtor.

No. 2461-J.-36/16797 (H.—Judl.), dated 16th May, 1936.

A COPY is forwarded to—

- (1) the Registrar, High Court of Judicature at Lahore, for the information of the Hon'ble Judges and for communication to all civil courts concerned, in continuation of Punjab Government endorsement No. 28366-Judicial, dated the 24th August, 1935 ;
- (2) all Commissioners of Divisions in the Punjab, for information, in continuation of Punjab Government endorsement No. 28366-Judicial, dated the 24th August, 1935;
- (3) the Deputy Commissioners, Karnal, Hoshiarpur, Amritsar, Jhang and Rawalpindi, for information.

By order, etc.,

A. V. ASKWITH,

Home Secretary to Government, Punjab.

REPORT
OF THE
Select Committee on the Punjab Relief
of Indebtedness Bill.

Annamalai Singh & Valiyadi Cheluvandi
 all 25.

4 23 in Puzigge arayanvadi aruvu 600.
~~Aring~~ Rice sharing plus 2 as for each
 80 is money. (Arudin was the head for
 kitchen work).

~~On~~ Paid Rs 21-8-0 Cook Rs 3/-

~~On~~ 620 in Rs 1-12-0 going Rs 12-0

Money paid Rs 1-8-0 (bought for

(Machi) Rice 2-4-0 Gang 0-8-0

Land in Rs 9/-

Here with.

One  day's work obtained.

Money also purchase rice for whom we are
 using, cloth etc. — Rs 3/- paid with
 advance.

X9(U): 6. (2236) N34t

54

Report of the Select Committee on the Punjab Relief of Indebtedness Bill.

THE Select Committee appointed to consider and report on the Punjab Relief of Indebtedness Bill held meetings on the 27th, 28th, 29th, 30th of August, 4th, 5th, 6th, 8th, 10th, 11th and 12th of September under the presidency of the Hon'ble Finance Member. All members attended the meetings except Sardar Habib Ullah on the 27th, 28th, 29th and 30th of August; Sardar Bishan Singh on the 27th, 28th and 29th of August, Mr. Manohar Lal on the 5th and 6th of September, and Raja Narendra Nath on the 11th and 12th of September. The meeting on the 21st of September was attended by all except Raja Narendra Nath and Mr. Manohar Lal.

The Committee beg to report as follows :—

1. *Preamble.*—It was decided to amend the title of the Bill by the omission of the words “ and the improvement of agrarian credit,” which are inconsistent with the purpose of the Bill.

2. *Clause 2.*—As agreement could not be reached about the definition of “ agriculturist ” it was decided to omit altogether the definition of “ agriculturist,” and to replace it in clause 7 by a definition of “ debtor.”

3. *Clause 3.*—It was unanimously decided to restrict the operation of this clause to persons entitled to summary administration of the estates, following the recommendation of the Hon'ble Judges of the High Court. The whole clause was redrafted accordingly.

4. *Clause 4.*—The Committee decided that in place of the words “ one thousand rupees ” the words “ fifteen hundred rupees ” should be substituted.

5. *Clause 5.*—The Committee by a majority decided to redraft sub-clause (iv) (1) with the object of making the courts deem all compound interest to be excessive except in certain transactions of which the details are taken from section 2, sub-section (7) of the Punjab Regulation of Accounts Act, 1930, of which sub-clause (g) has itself been amended in order to give greater relief to “ debtors ” as defined in this Act.

The Committee by a majority amended the second proviso to clause (iv), altering the rates of interest to be deemed excessive from 12 per cent. simple interest on secured debts, and on unsecured from 18 per cent. to 18½ per cent.

The Committee by a majority added a further sub-clause (3) with the object of making the courts deem a transaction carrying compound interest as defined in sub-clause (1) to be substantially unfair.

6. *Clause 6.*—The Committee by a majority inserted this clause by making Part III of the Bill retrospective. (New clause.)

7. *Clause 7, sub-clause (1).*—(1) The Committee redrafted the definition of “ Debt ” with the objects of— (Old clause 6.)

- (i) bringing it into accord with the new definition of “ Debtor ” in sub-clause (2);
- (ii) excluding debts barred by limitation; and
- (iii) excluding debts due to co-operative banks and societies and commercial banks.

The Committee also altered the drafting of “ trading debts ”.

(2) The Committee by a majority inserted a definition of “ Debtor ” to take the place of the definition of “ agriculturist ” omitted from clause 2.

(3) The Committee unanimously adopted the definition of “ Agriculture ” found in the English Small Holdings Act, 1892, 55 and 56 V. O. 31.

The sub-clauses have been renumbered accordingly.

The Committee unanimously decided that in the definition of "Debtor" no sum should be prescribed.

(Old clause 7.) 8. *Clause 8.*—The Committee unanimously decided to redraft the portion of this clause empowering the Local Government to define the local limits of the jurisdiction of a Board.

The Committee by a majority decided to fix the jurisdiction of the Board at Rs. 10,000 or such larger amount as the Local Government might prescribe for any area in place of leaving the jurisdiction of the Local Government unfettered.

(Old clause 8.) 9. *Clause 9.*—The Committee decided by a majority to make a consequential amendment in clause 9 following on the decision about pecuniary jurisdiction in clause 8, sub-clause (3).

(Old clause 9.) 10. *Clause 10.*—The Committee decided unanimously that a verification of the application is necessary.

(Old clause 10.) 11. *Clause 11.*—In sub-clause (1) (d) and (2) (c) the Committee decided upon consequential amendments and omitted the original sub-clause (1) (a) as unnecessary in view of the redrafting of clauses 8 and 9.

12. *Clause 12.*—In sub-clause (2) the Committee decided unanimously to add the words "with acknowledgment due" after the words "registered post."

The Committee by a majority decided to omit the proviso to the first sub-clause.

(Old clause 12.) 13. *Clause 13.*—The Committee made a consequential amendment arising from the omission of the proviso to clause 12 (1), and further decided unanimously to insert a proviso to sub-clause (2) allowing a creditor to avoid the consequences of the sub-clause by proving that he had not received service of notice.

(Old clause 13.) 14. *Clause 14.*—The Committee decided unanimously to insert a proviso to sub-clause (1) making a decree or order of a civil court conclusive evidence as to the amount of the debt.

(Old clause 14.) 15. *Clause 17.*—The Committee by a majority decided to omit the words "to whom not less than sixty per cent. of the total amount of the Debtor's debts are due" in sub-clause (1) and to insert in their place the words "all or any of the".

The Committee also decided to give the Board power to refuse to authenticate an agreement if the Board held unanimously that the period agreed upon for payment was excessive.

The Committee unanimously decided to add to the sub-clause the words "The Board shall also pass an order dismissing the application so far as it relates to the creditors who have not come to an amicable settlement," in order to make the order of the Board complete.

Sub-clause (2).—The Committee unanimously decided that the procedure for registration was complex and unnecessary and redrafted the sub-clause accordingly.

(New clause.) 16. *Clause 18.*—The Committee unanimously decided that it was necessary to add a clause compelling an applicant to conduct his application with due care and diligence, and has drafted accordingly.

17. *Clause 19.*—In sub-clauses (2) and (3) the Committee made an amendment consequential on the abolition of the procedure for registration.

At the end of sub-clause (3) the Committee unanimously decided to strike out the words "all amounts recorded as payable under such agreement have been paid" and in their place inserted the words "six months after the expiry of the period fixed in the agreement authenticated under sub-section (1) of section 17."

18. *Clause 20.*—In sub-clause (2) the Committee made an amend- (Old clause 19.)
ment consequential on the abolition of the procedure for registration.

19. *Clause 22.*—The Committee unanimously agreed to the exci- (Old clause 21.)
sion of the words " in reference to " and to the redrafting of the proviso.
The only change in substance has been the insertion of the words " or
modifying "

20. *Clause 23.*—The Committee unanimously decided to allow (Old clause 22.)
legal practitioners to appear in proceedings before Boards

21. *Clause 24.*—The Committee unanimously decided to redraft this (Old clause 23.)
clause in order to prevent civil courts from entertaining new suits or
other proceedings instituted during the pendency of any application
before the Board.

22. *Clause 25.*—The Committee unanimously decided to insert a (New
clause.)
new clause extending limitation.

23. *Clause 27.*—The Committee unanimously decided to require (Old clause 25.)
previous publication of any rules made by the Local Government and
drafted sub-clause (2) accordingly.

The Committee unanimously agreed to a redraft of sub-clause (1)
(f) consequential on the abolition of the procedure for registration.

24. The Committee unanimously decided that in view of additions
proposed to the Bill, Part V would more properly be incorporated in
Part VIII of the amended Bill. The remaining parts and clauses of
Bill have been renumbered in accordance with this decision.

25. *Clause 29.*—The Committee unanimously decided in sub-clauses (Old clause 29.)
(1) and (2) to insert the words " a debtor as defined in section 7 " in place
of the words " an agriculturist ". These amendments are consequential
on the excision of the definition of " agriculturist ".

The Committee unanimously decided as a further consequential
amendment to strike out sub-clause (3).

26. *Clause 30.*—The Committee unanimously decided to redraft (Old clause 30.)
sub-clause (1) with a view to making this Part of the Bill of universal
application.

27. *Clause 31.*—The Committee decided to add a sub-clause (3) (Old clause 31.)
making it necessary for the Local Government to publish rules made
under this clause.

28. The Committee by a majority decided to frame clauses amend-
ing the existing law :—

- (1) increasing the areas and sum in sub-section (3) (a) of section 1 of the Redemption of Mortgages (Punjab) Act, II of 1913--clause 32 ;
- (2) arrest in execution of decrees—clause 33 ;
- (3) the protection accorded under section 60 (1) (c) of the Civil Procedure Code, 1908, to buildings occupied by an agriculturist—clause 34. The protection given by the existing law as interpreted by the courts is inadequate ;
- (4) by omitting the penal clause in sub-rule (3) of Order XXI, Rule 2, of the Civil Procedure Code, 1908—clause 35 ; at present sub-rule 1 is in form jussive, but the penalty for failure to certify falls on the judgment-debtor and not on the decree-holder ;
- (5) changing the period of limitation for the execution of a decree from twelve years to six—clause 36 ; the existing period is too long and leads to the harassment of a judgment-debtor ;
- (6) transferring from the Civil courts to the Collector the execution of decrees in which there is a temporary attachment and alienation of the land of an agriculturist— clause 37, the Collector already is consulted and the courts as a rule follow his advice. It is a simplification of procedure to transfer the whole of this work to the Collector ;

- (7) fixing the onus of proof of consideration entered in a bond or any other document on the creditor—clause 38. The courts at present require a low standard of proof of consideration, and the illiterate debtor is put at a grave disadvantage.

None of these proposals are found in the Bill as originally introduced in the Legislative Council except that for an alteration in the law regulating the arrest of a debtor in execution of a decree; the original proposal about this has been altogether changed.

29. In the opinion of the Select Committee the Bill has been so altered as to require republication.

30. A copy of the Bill as redrafted by the Select Committee is appended. The Bill was originally published in the *Punjab Government Gazette Extraordinary* of Thursday, the 8th of March 1934.

*CHHOTU RAM.

*BIASAT ALL.

*MUHAMMAD HAYAT QUBESRI.

*AKBAR ALLI.

*BUTA SINGH.

*BISHAN SINGH.

*†HABIB ULLAH.

*MUKAND LAL PURI.

*D. J. BOYD.

*J. D. ANDERSON.

*MILES IRVING.

*MANOHAR LAL.

*NARENDRA NATH.—24-9-34.

*Subject to a note of dissent.

†Subject to my right to move any amendment in the Council.

Minutes of Dissent.

I.

We sign this report subject to our right to move or support any amendment in Council.

MILES IRVING—24-9-34.

J. D. ANDERSON—24-9-34.

D. J. BOYD—24-9-34.

II.

THE Bill as originally introduced in the Council was no better than a toy. Even as a toy it was not sufficiently attractive to make itself acceptable to debtor classes, in spite of their child-like simplicity, as a source of amusement. Consequently, during the sittings of the Select Committee we had to make many attempts—some successful, others unsuccessful—to make certain amendments. We considered these amendments essential if the Bill was to fulfil the object with which it was avowedly undertaken. As a result of our efforts we have been able to make several important amendments in the Bill as it was originally introduced. We, therefore, consider it necessary to append a note which will explain, in general, the back-ground of our efforts.

The crushing burden of debt under which certain classes of our province have been groaning is simply stupendous. Even at a modest estimate it may be placed at 200 crores. At the rate of 15 per cent, the amount of annual interest on our debt liabilities will be 30 crores. Even the champions of money-lenders now press the view that the burden of land revenue is too heavy to be borne by the land-owning classes under the present conditions, and should be reduced by 50 per cent. The average burden of annual land revenue proper is roughly three crores. If the burden of land revenue is too heavy to be borne the burden of interest alone on our debt obligations is obviously ten times more heavy. Moreover, the present slump has brought down the prices of agricultural produce approximately to a third of their dimensions in the boom period. This means that in the terms of produce the value of debts has appreciated three times. A stronger case for immediate and substantial relief can hardly be conceived.

From the attitude adopted by our colleagues representing money-lending interests it appears that they have not realised even partially the appalling extent of the poverty, wretchedness and economic helplessness which have established their sway in the country-side. Even the official members seem to have realised but imperfectly the urgent need of some legislation to rescue the debtor classes from their present pitiable plight. We who are not accustomed to the constant sights of plenty and prosperity such as are to be found in Lahore, Simla, Amritsar and Rawalpindi are in a better position to judge the actual conditions which prevail in the province. We desire earnestly to impress upon all concerned that if effective steps are not taken to afford relief to debtor classes the peace of the province will be endangered. The execution of decrees will in future involve the sale of judgment-debtors' houses, plough cattle and agricultural produce on a large scale and almost as a normal feature. To a lesser extent, but still in an undesirably large number of cases, recourse will be had to the arrest of the bread-earner of the family, to the temporary alienation of the whole holding of a judgment-debtor for long periods, and even to the attachment of the property belonging to the friends and relations of the judgment-debtor in order to exert the maximum pressure for recovery. The prospects of being rendered homeless, landless and deprived of the means or chances of earning an honest livelihood will place too great a strain on human nature to respect the sanctions of law. We sincerely fear that if the insistence of money-lending interests on their pound of flesh under the bond is allowed to stand in the way of a legislation securing all necessary relief to the debtor classes, peace and security of life and property will have to face a very serious menace. The harshness of the methods of recovery which we advise to be abolished and which our urban colleagues

desire to be maintained is a creation of the British administration. In pre-British days the arrest of a judgment-debtor and the sale of his land, or house or bullocks were practically unknown. Moreover, the need of the good-will and sympathy of his clientele to the *Sahukar* in troubled times acted as a very strong and effective sanction against rapacity or undue harshness on his part. Writing in the December (1927) issue of "London Foreign Affairs" Sir John Maynard observes that "the exactions of the usurer were limited by the dangers of popular justice." This is, in fact, the same idea in a different garb. Thus the amendments which we have urged are no more than a plea for a reversion to the practice of pre-British days or the abolition of the advantages which the *Sahukar* has obtained owing to the introduction of a more "civilised" system of law than is good for a society not sufficiently advanced for the application of British notions of law, equity and contractual obligations.

In suggesting and pressing our amendments what we have kept in view is that the debtor should be allowed to remain a free agent and an efficient worker in the pursuance of his avocation. If this condition is fulfilled we believe that he will make genuine efforts to repay as much of his debts as he possibly can. Perhaps the representatives of money-lenders on the Select Committee are not aware that debtors, in a spell of unexpected prosperity, have in the not remote past, undertaken to repay even those debts which had become time-barred.

Knowing as we do the exact economic condition in which the debtor classes find themselves at the present moment, we are convinced that these classes stand in need of immediate and substantial relief. Having assumed the need for such relief we have next to ascertain in what manner that relief can be given. We are of the opinion that this relief can take the following forms :—

- (a) reduction in interest ;
- (b) reduction in principal ;
- (c) exemption of the judgment-debtor from arrest ;
- (d) exemption from attachment of a certain class of property belonging to a debtor ; and
- (e) reduction in the period during which execution proceedings can be taken out.

We have tried to provide in our amendments suitable provisions guaranteeing these forms of relief except (b).

We may now proceed to deal with specific amendments which we have been able to make or which we have failed to make in spite of our best efforts.

One of the sorest grievances with the critics of this Bill was that Government and zamindars had entered into an unholy alliance to benefit the Muslim at the expense of the Hindu and the zamindar at the expense of the non-zamindar. As soon as the Select Committee entered upon its business we made a definite suggestion that the supposed sting of this legislation being a pro-Muslim or a pro-zamindar measure be taken out and all the provisions of the Bill should be made applicable to all sections of the population, whether agricultural or non-agricultural, rural or urban. We were surprised to find that this suggestion was stoutly opposed by those of our colleagues who claim to represent money lending interests and the alliance, whether holy or unholy, seemed to have come into existence between the official members and the urban members of the Select Committee, because our official colleagues were just as keen and anxious to oppose this suggestion as our urban non-official colleagues on the Committee.

One of the complaints of those who represent the interests of debtor classes has been that the present complexion of our judiciary tends to make our officers, consciously or unconsciously, more favourably disposed to the creditor than to the debtor. As this complaint has been both loud and persistent, we considered it advisable to try to make the law as definite and precise as it was possible to make it. With this end in view, after our proposal to make this Bill a law of

general application had failed, we proposed that the word ' agriculturist ' should be so defined as to include (a) all the members of notified agricultural tribes ; (b) all members of depressed classes among Hindus with all members of the classes corresponding to these Hindu classes among Muslims and Sikhs ; and (c) all other persons earning their livelihood mainly by agriculture. This definition of the class of persons to which the Bill should be made applicable was strenuously opposed both by official members and the representatives of money-lending interests on the Select Committee, and as two of us happened to be absent in the initial stages of the Select Committee we were defeated in our attempts to make the law precise. As the definition of a debtor now stands everything has been left to the discretion of courts, and if our past experience can be any guide to the future we are extremely apprehensive that the law will be construed in such a manner that the object of this Bill will be entirely nullified. That our apprehensions are not unfounded will appear from the fact that the Usurious Loans Act of 1918 has been, both in the letter and in the spirit, a complete dead letter. A similar fate has so far fallen to the lot of the Regulation of Accounts Act.

When we came to part II of the Bill we tried to have such part of the property of a debtor as is under the present law exempt from attachment and sale in execution of a decree excluded from his assets. Our contention was that such property not being available for the liquidation of a statutory agriculturist's debt, should not be regarded as an item of his assets for the purposes of insolvency. We were again defeated in our attempt. The argument put forward by the other side was that such exclusion would be opposed to all notions of equity and to all fundamental principles of the law of insolvency. We are here reminded of the well-known saying that equity varies with the length of the chancellor's foot. Anyway whether equity does or does not vary according to the length of the chancellor's foot, it should certainly vary with fundamental changes in economic conditions. Similarly fundamental principles ought to be susceptible of change and flexibility to suit fundamental changes whether social, political or economic. Nothing can be half so fundamental as the need of keeping alive and efficient that portion of the population which is regarded as the very backbone of the community. However, the combination of urban and official members voted down our amendments. Another amendment which we desired to make related to the method of valuation in respect of agricultural land. We contended that in order to make a simplified procedure of insolvency available to a larger number of persons and also to make the law precise, some definite standard in terms of land revenue should be adopted. We were unsuccessful again. As the present law now stands everything has been left to the discretion of courts, and it will not at all be difficult for them to nullify the present amendment of the insolvency law to a very large extent. Courts can adopt any method of valuation in order to exclude deserving debtors from the benefit of the amendment contained in clause 4 of the present Bill. Again, in colony areas comparatively small land-holders will be deprived of the benefits of this amendment. If we estimate the value of a square of colony land at Rs. 250 per acre, an owner of more than 6 acres will be ruled out of court if clause 4 of the present Bill is allowed to stand as it is.

In our amendment of the Usurious Loans Act, also we have not succeeded to the extent to which we desired. We are all agreed that rates of simple interest higher than 15 per cent. should be regarded as excessive, and some of us think that even 15 per cent. on unsecured debts and 8 per cent. on secured debts are too high rates.

Coming to Part IV some of us entertain an apprehension that debt, as defined in clause 7, is considerably vague and indefinite, and there is a loophole for the debts of any *bona fide* debtor not being regarded as debts for the purposes of this part of the Bill.

Some of us would also like that the limit of debt in clause 8 should not be prescribed at all, while some others think that if this limit has to be fixed at all it should be fixed at a minimum of Rs. 25 thousand as in the Central Provinces.

Sub-clause 1 and sub-clause 3 of clause 17 of the Bill as amended in the first instance by the Select Committee seemed to us to be mutually destructive. Therefore, in order to eliminate the conflict that existed between sub-clause 1 and sub-clause 3, we agreed, rather reluctantly, to the present form of clause 17. We were unable on the spur of the moment, to think of a better device to obviate the conflict referred to above.

We were anxious to define the rule of 'Damdupat' in such a manner as to exclude the possibility of a court passing a decree for more than double the amount which was originally advanced. Two of us (Sardar Bahadur Sardar Buta Singh and Sardar Bishan Singh) feared that such a definition might compel a court to pass a decree for refund in favour of the debtor, and this fear on their part resulted in our defeat on this point.

Originally we drafted an amendment providing for the absolute exemption from arrest of a judgment-debtor in execution of a decree. We are still of the opinion that such an exemption would have been preferable. But in order to secure the goodwill and support of official members we agreed to incorporate the four provisos from (a) to (d) in the Bill as amended. But we reserve our right to move the deletion or modification of these provisos. We also proposed that order 21, rule 2 should be so amended as to penalise the decree-holder for his failure to certify any repayments made to him or any adjustments of his decree outside the

We felt that it was both anomalous and illogical for the law to impose an obligation to be discharged by a decree-holder and to cast a penalty on the debtor for failure of the creditor to discharge that obligation, and although we agreed to drop our own proposal and to agree to the official proposal of the omission of sub-section 3 of order 21, rule 2 we still feel that the amendment as it stands is lacking in logical perfection.

We also desired to exempt ancestral property in the hands of heirs from liability to attachment in execution of a decree. One of us (Sardar Bahadur Sardar Buta Singh) thought that the custom of the province being so clear on the point it was completely unnecessary to incorporate a provision to this effect in this Bill. The result was that this motion was lost by the casting vote of the Chairman.

In order to be able to sign this note before we disperse, we have had to write it in a great hurry.

CHHOTU RAM.

AKBAR ALI.

RIASAT ALI.

BUTA SINGH.

BISHAN SINGH.

MUHAMMAD HAYAT.

HABIB ULLAH.

III. GENERAL.

We do not propose in this minute of dissent to note in any detail on the provisions of the Bill as existing originally or as modified in the Select Committee, for we think that the objectionable features of the Bill have been so intensified in the Select Committee that the Bill as it now stands is a wholly unjust and unwise measure. The most serious criticism against the Bill was that while reducing the amount of debt due, it not only made no provision for the payment of even these reduced debts, but actually made recovery of loans more difficult. The further obstacles introduced by the majority of the Select Committee in the way of recovery are tantamount to striking at the very basis of rural credit, making it impossible to realise even a fraction of just debts from people who are well able to pay. The proposed legislation may wipe out present debts, but it can furnish no solution of our agrarian financial problems.

At a very early stage of our deliberations it was made clear that Government could in no event undertake to be a party to the recovery of any debts finally determined under the various provisions of the Bill; and this made proposals on the lines existing in the Central Provinces legislation inadmissible.

The removal of the words "and the improvement of agrarian credit" from the Preamble is significant, because the position of the village money lender already much weakened and deteriorated is likely to become impossible under this legislation, and agrarian credit except such as is conducted under conditions of special privilege and protection will tend to become extinct. To the premium (see Darling's Report of the Punjab Banking Enquiry Committee, paragraph 205) upon default and conditions favouring the bad borrower now existing, real legislative support will now be given, and no "improvement of agrarian credit" could be possible in these circumstances.

PART II.—INSOLVENCY PROCEDURE.

We shall content ourselves with saying that resort to summary administration in insolvency should be strictly limited to minor cases, and should not in any case be extended beyond the prescribed limit, particularly as there are difficulties in this Province in the availability of the debtor's estate. It has also to be remembered that the procedure even under existing narrow limits is resorted to not infrequently. There is also the further question whether the procedure should be given a wider scope in this Province than in the rest of India. Are there any special circumstances here not to be found elsewhere.

PART III.—USURIOUS LOANS.

The original proposals under this head were drastic enough, but the modifications adopted at the instance of the majority, strike at the root of all principles and all dictates of experience.

1. Compound interest, except in certain transactions, is declared excessive though (i) the system of compound interest has the sanction of time and embodies the practice of the most respectable credit institutions and (ii) legislative efforts to abolish it are likely to be evaded to the detriment of the debtor.

2. The rate of interest is reduced to 8 per cent. simple interest on secured debts.

(a) This is in direct disregard of the rates charged on good security even in the recent past, when money has been cheap, on good security by the best banks. In big towns rates charged on mortgages of house property by joint stock banks is usually 9 per cent. with half-yearly rests or over; the Central Co-operative Banks would in various districts have been charging a similar if not higher rate (they have themselves been paying on deposits 7 and 7½ per cent. within the past four years which of course could increase at a compound rate by annual accretion to the principal).

(b) This also ignores the fact pointed out by nearly every Banking Enquiry Committee in the country that there are good securities and bad (see in this connection paragraphs 47, 49, 53 and chapter XIV of Darling's Report). The majority has treated all secured debts alike as if all securities were equally good. This lack of discrimination completely vitiates the original proposals as well as the majority modification on the question of rate.

3. *The rate on unsecured debts ; reduction to 18½ per cent.*—It is unfair to prescribe a rigid limit, apart from the fact that it may be difficult to secure its observance. Any rigid limit means failure to realise the various factors which enter on the determination of the interest charged, — [vide paragraphs 48, 51, 53 (cultivator's personal security) of Darling's Report.]

4. The courts must deem 'compound interest' to be a substantially unfair transaction. (See our remarks already made on the subject of compound interest). The present modifications mean that a bargain that was fair when entered into as between the parties is by a provision of law now declared unfair, and this from the date when the contracting parties regarded it fair. Nothing could be more unjust and improper, and we feel that a Government that encourages or countenances such legislation would be laying the seeds of danger to public tranquility and weakening the foundation of secure polity. Even the Calvert Committee which included 3 zamindar members unanimously proposed much higher rate of interest, and definitely recommended that retrospective effect should not be given to the rates proposed.

5. It is to be remembered that the application of this part—Usurious Loans—is not confined to agriculturists for whose relief the legislation has been proposed, but is much wider in scope and affects contracts between people with open eyes and well able to take care of themselves, and entered upon as strict business.

6. Usury is not easy to define, and where efforts are made as here without any regard to existing facts as to security and the habits and ways of individual debtors and other circumstances to prescribe rigid rates, it means an attempt by legislation to secure results for which human experience furnishes no warrant.

PART IV.—DEBT CONCILIATION BOARDS.

The modifications introduced in this part at the instance of the majority alter the whole nature and purpose of the proposed legislation. With the provisions made under Part IV, with those elsewhere, it can no longer be said that the balance is held fairly between the debtor and creditor or the whole system of rural credit will not be seriously impaired. We shall refer only to the main provisions and modifications :—

1. *Clause 7 (1)—Exclusion of debts due to co-operative banks or to commercial banks.*—The wisdom of excluding co-operative banks is open to question, particularly as the directors of these banks are themselves of the borrowing class. These banks require no special protection, particularly if, as is represented, their dealings are of a character that show the utmost consideration for the borrowers. If that be so, why should there be any fear that as a result of the action of Conciliation Boards, they may come to grief.

As regards commercial banks, we had not before us the opinion of any of the banks. It is a matter of such vital moment that their opinion should have been obtained.

2. *The definition of debtor.*—This definition is too wide, and includes agriculturists for whose relief the proposed legislation could not or should not have been intended, for example, classes such as are referred to by the Northern India Chamber of Commerce (second supplementary Book of opinions at page 9) should certainly be excluded.

3. *Clause 8 (3)—Limit of Rs. 10,000 or such large amount as the Local Government may prescribe for any area.*—(a) The minimum limit is too high and in our view far beyond the nature of debt for which relief is required. (b) The Conciliation Boards from whose decisions there is to be no appeal, are

to be clothed with powers exercised only by Sub-Judges of the 1st class now, and, where appeal is at present possible, right up to the Privy Council.

4. *Omission of the proviso to clause 12 (1).*—This omission is obviously unfair. A creditor is being shut out even on good cause being shown to have the period of submitting his statement of debt extended.

5. *Clause 17 (original clause 16).*—The modification introduced by the majority, *viz.*, in place of 60 per cent. "all or any of the creditors" is in our view fatal to the whole idea of "conciliation". It would be open, under the modified provision, for a single creditor to affect the rights of other creditors. A single creditor may act through collusion, ignorance, spite or any of the thousand after-springs of action, and yet he is to furnish the test for the application of the rigorous provisions of this Part IV. This is unheard of legislative compulsion described as conciliation. In the Central Provinces, the agreement of amicable settlement must be accepted by creditors to whom not less than forty per cent. of the total amount of the debtor's debts are owing, and in the opinion submitted on the Bill, several authorities (including the Northern India Chamber of Commerce) have emphasized the need of raising the 60 per cent. to 75 per cent. and at least one official would have the whole body of creditors agreed to a settlement. Whatever the proportion of creditors, who must agree, it is obvious that the proportion should be substantial, and it should not be open under the guise and name of conciliation for one creditor to affect the rights and positions of other creditors.

6. In original clause 18, now clause 19, it is a matter for serious consideration whether the term "fair offer" should not receive a legislative definition, considering that the discretion of these Boards, not likely to be constituted largely of trained judicial officers, is already so extensive and not liable to be corrected by any higher tribunal.

7. If new clause 19 (3), old clause 18 (3), stands with the modification of 60 per cent. to a possible single creditor in new clause 17, the danger of the wholly unwarranted postponement of the claims of the mass of creditors is obvious. We fail to see how any Government could permit such trampling upon the rights of a large body of creditors.

8. *Bar of an appeal or revision.*—This is too drastic a bar considering the extent of the jurisdiction of the Boards, their large discretion and the likely character of their constitution. We invite in this connection attention to important opinion such as that of the Northern India Chamber of Commerce, and several high executive and judicial officers.

PART V.—DAMDUPAT.

If this principle borrowed from Hindu jurisprudence, is adopted, it should be subject to the well defined limitations under which it is applicable there.

PART VIII.

The majority has here introduced modifications on the existing all-India laws, the net effect of which is to place serious obstacles in the way of recovery of debts, and thereby affect the credit of all classes most prejudicially. We see nothing in the particular exigencies of this Province to warrant these modifications of the general law. If the Punjab Government feel that the law of Civil Procedure and Limitation should be changed in the directions desired by the majority, the proper course is to convince the Government of India in this regard, and have the relative laws amended. The Punjab furnishes no peculiar problems and requires no special remedies; whatever the problems, they are the same all over India.

We do not support the changes introduced in :—

(1) the law of arrest.

Here apart from the general considerations stated above, see the weighty opinions of the Northern India Chamber of Commerce and various judicial officers on old clauses 27 and 28. Apart from the other highly objectionable features of this change the explanation relating to "paying capacity" would practically exempt all members of the notified agricultural tribes from arrest for debts incurred long before, this change in the law is made. This is clearly an exten-

sion of the principles of the Land Alienation Act in favour of agricultural tribes and against the creditors who had advanced money on the assurance that in determining "paying capacity" agricultural land would be considered as an asset.

- (2) the definition of building as contained in S. 60, C. P. Code. 'Occupation' furnishes the only proper test for exclusion ;
- (3) the amendment of order XXI, rule 2, of C. P. Code as contained in new clause 35 ;
- (4) new clause 36, by reducing the period of limitation for execution of decrees from twelve years to six years ;
- (5) to the new clause 37, which would result in two courts of different jurisdictions executing the same decree at one and the same time ;
- (6) new clause 38 affecting the burden of proof.

This is contrary to all principles of jurisprudence as repeatedly laid down by the High Courts and by the Privy Council.

Drastic changes were made on the last day in various statutes, some of them applicable to the whole of India of which no previous notice had been given to us. The changes which are embodied in Part VIII needed very careful consideration.

CONCLUSION.

We have not referred to any minor provisions or modifications in the Select Committee. In our opinion the whole Bill has been so altered in its scope and character that public opinion should again be invited on the modified Bill.

The provisions of the Bill are of such complicated nature and its effects certain to be of so wide-reaching and serious a nature that we reserve to ourselves the fullest freedom at the council stage when the Bill is to be taken into consideration.

We may be permitted to add that while the present measure is likely to impair rural credit seriously, if not to destroy it very largely, it does not touch even the fringe of the important question of rural betterment in the Punjab.

MANOHAR LAL.

MUKAND LAL, PURI.

NARENDBA NATH.

26th September 1934.

Annexure to the Report.

[*Bill as introduced in the Council on
the 20th March 1934.*]

Bill No. 17 of 1934.
The Punjab Relief of Indebtedness Bill.

*A Bill to provide for the relief of
indebtedness and the improvement
of agrarian credit in the Punjab.*

WHEREAS it is expedient to amend the law relating to relations between debtors and creditors ;

And whereas the previous sanction of the Governor-General required under section 80-A (8) of the Government of India Act and the previous sanction of the Governor required under section 80-C of the said Act have been obtained ;

It is hereby enacted as follows :—

PART I. PRELIMINARY.

1. (1) This Act may be called the Punjab Relief of Indebtedness Act,
Short title, extent and commencement. 193 .

(2) This Part and Parts III, IV, V, VI and VII shall extend to the whole of the Punjab and Part II to such areas as the Local Government may from time to time, by notification, direct.

(3) This Act shall come into force on such date as the Local Government may, by notification, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Agriculturist" means—

(a) a landowner who earns his livelihood from agriculture either with his own hands or by his servants or tenants, or
(b) a tenant or servant of a landowner as defined in clause (a).

Interpretation clause.

Explanation :—

(i) An agriculturist who, temporarily ceases to earn his livelihood as such or is prevented from so doing by reason of age or bodily infirmity or by reason of his employment in the military or naval service of His Majesty, does not by such cessation, inability or employment lose his status as an agriculturist.

(ii) A village menial living outside the limit of any municipality, notified area, or small town, and paid in cash or in kind for work connected with agriculture shall be deemed an agriculturist within this definition.

(2) "Interest" means rate of interest and includes the return to be made over and above what was actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise.

[*Bill as modified by the Select Committee.*]

[The amendments are shown in italics.]
The Punjab Relief of Indebtedness Bill.

A Bill to provide for the Relief of Indebtedness in the Punjab.

WHEREAS it is expedient to amend the law relating to relations between debtors and creditors ;

And whereas the previous sanction of the Governor-General required under section 80-A (3) of the Government of India Act and the previous sanction of the Governor required under section 80-C of the said Act have been obtained ;

It is hereby enacted as follows :—

PART I. PRELIMINARY.

1. (1) This Act may be called the Punjab Relief of Indebtedness Act,
Short title, extent and commencement. 193 .

(2) This Part and Parts III, IV, V, VI, VII and VIII shall extend to the whole of the Punjab and Part II to such areas as the Local Government may from time to time, by notification, direct.

(3) This Act shall come into force on such date as the Local Government may, by notification, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context,—

Interpretation clause.

(1) "Interest" means rate of interest and includes the return to be made over and above what was actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise ;

- (3) "Loan" means a loan whether of money or in kind and includes any transaction which is in the opinion of the Court in substance a loan.

PART II.

INSOLVENCY PROCEDURE.

V of 1920.

3. In clause (a) of sub-section (1) of section 10 of the Provincial Insolvency Act, 1920 (hereinafter referred to as the said Act), for the words "five hundred rupees" the words "two hundred and fifty rupees" shall be substituted.

4. In section 74 of the said Act, for the words "five hundred rupees" the words "one thousand rupees" shall be substituted.

PART III.

USURIOUS LOANS.

V of 1918.

5. In section 3 of the Usurious Loans Act, 1918—

- (i) for the word "and" in clause (a) of sub-section (1) the word "or" shall be substituted;
- (ii) for the word "may" after the word "court" in clause (b) of the same sub-section, the word "shall" shall be substituted;
- (iii) for the word "may" after the word "namely" in clause (b) of the same sub-section, the word "shall" shall be substituted;

to clause (a) of sub-section (2) the following provisos shall be added, namely:—

Provided that the court shall not deem interest to be excessive, if on loans advanced on the security of immovable property or pledge of movable property, it does not exceed 8 per cent. compound interest with annual rests or 10 per cent. simple interest, and, if on other loans, it does not exceed 10 per cent. compound interest with annual rests or 15 per cent. simple interest:

Provided further, that the court shall deem interest to be excessive if, on loans advanced on the security of immovable property or pledge of movable property, it exceeds 12 per cent. compound interest with annual rests or 15 per cent. simple interest, and, if on other loans, it

- (2) "Loan" means a loan whether of money or in kind and includes any transaction which is in the opinion of the Court in substance a loan.

PART II.

INSOLVENCY PROCEDURE.

V of 1920.

3. In section 10 (1) insert after the existing clause (a) the following:—

"(aa) his debts amount to two hundred and fifty rupees and he satisfies the court that he is entitled to summary administration of his estate under Part V of the Act."

4. In section 74 of the said Act, for the words "five hundred rupees" the words "fifteen hundred rupees" shall be substituted.

PART III.

USURIOUS LOANS.

X of 1918

5. In section 3 of the Usurious Loans Act, 1918:—

- (i) for the word "and" in clause (a) of sub-section (1) the word "or" shall be substituted;
- (ii) for the word "may" after the word "court" in clause (b) of the same sub-section, the word "shall" shall be substituted;
- (iii) for the word "may" after the word "namely" in clause (b) of the same sub-section, the word "shall" shall be substituted.

(iv) to clause (a) of sub-section (2) the following words shall be added:—

(1) The court shall deem all compound interest to be excessive except in the following transactions:—

(a) a deposit of money or other property in a Government Post Office Bank or any other Bank
or in a company or with a co-operative society;

(b) a loan to or by a deposit with any society or association registered under the Societies Registration Act, 1860, or under any other enactment;

(c) a loan advanced by Government or by any local body authorised by Government;

(d) a loan advanced by a bank, a co-operative society or a

exceeds 18 per cent. compound interest with annual rests or 24 per cent. simple interest."

company whose accounts are subject to audit by a certificated auditor under the Companies Act ;

- (e) a loan advanced to a trailer ;
- (f) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1981, other than a promissory note ;
- (g) a transaction which is, in substance, a mortgage or a sale of immovable property by any person other than a debtor as defined in section 7 of the Punjab Relief of Indebtedness Act.

(2) The court shall deem interest to be excessive if on loans advanced on the security of immovable property or pledge of movable property it exceeds 8 per cent. simple interest and if on other loans it exceeds 18 per cent. simple interest.

(3) Except in the case of transactions mentioned in sub-clause (1) (a) to (g) every loan carrying compound interest shall be deemed to be a substantially unfair transaction.

6. The provisions of this part of the Act shall apply to all suits pending on or instituted after the commencement of this Act.

PART IV.

DEBT CONCILIATION BOARDS.

6. (1) "Debt" includes all liabilities of an agriculturist in cash or in kind, secured or unsecured, payable under a decree or order of a civil court or otherwise whether mature or not, but shall not include trading debts, arrears of wages, land revenue or anything recoverable as an arrear of land revenue.

(2) "Debtor" means an agriculturist whose debt amounts to a sum prescribed by the Local Government for the area in which he resides.

Interpretation clause (definitions).

PART IV.

DEBT CONCILIATION BOARDS.

7. (1) "Debt" includes all liabilities of a debtor in cash or in kind, secured or unsecured, payable under a decree or order of a civil court or otherwise, whether mature or not, but shall not include debts incurred for the purposes of trade, arrears of wages, land revenue or anything recoverable as an arrear of land revenue, or any debt which is barred by the law of limitation, or debts due to co-operative banks and societies or to commercial banks.

(2) (a) "Debtor" means a person who owes a debt or debts and

- (i) who both earns his livelihood mainly by agriculture and is either a landowner, or tenant or a servant of a landowner or tenant, or
- (ii) who earns his livelihood as a village menial paid in cash or kind for work connected with agriculture.

Explanations—

- (i) a debtor shall not lose his status as such through involuntary unemployment or on account of incapacity temporary or permanent, by bodily infirmity, or if

(3) "Prescribed" means prescribed by rules made under this part of the Act.

7. (1) The Local Government may, for the purposes of amicable settlement between agriculturist debtors and their creditors, establish a Debt Conciliation Board for any area in the Punjab.

(2) Such Board shall consist of a chairman and two or more members to be appointed by the Local Government, which may, for reasons to be recorded in writing, cancel the appointment of any member or dissolve any Board.

(3) The chairman and every member of a Board so established shall be appointed for a term not exceeding three years, but shall be eligible for re-appointment on the expiry of his term.

(4) The quorum of a Board shall be prescribed by the Local Government.

(5) Where the chairman and members of a Board are not unanimous, the opinion of the majority shall prevail, and if the Board is equally divided, the chairman shall exercise a casting vote.

8. A debtor or any of his creditors may apply to the Board appointed for the area in which a debtor resides or holds any land, to effect a settlement between the debtor and his creditors.

he joins the military or naval service of His Majesty.

If any question arises whether or not a person is a debtor, the decision of a Debt Conciliation Board shall be final.

(ii) A debtor shall not lose his status as such by reason of the fact that he makes income by using his plough cattle for purposes of transport.

(iii) A debtor shall not lose his status as such only because he does not cultivate with his own hands.

(3) "Agriculture" shall include horticulture and the use of land for any purpose of husbandry, inclusive of the keeping or breeding of live stock, poultry, or bees, and the growth of fruit, vegetables and the like.

(4) "Prescribed" means prescribed by rules made under this part of the Act.

8. (1) The Local Government may for the purpose of amicable settlement between debtors and their creditors establish Debt Conciliation Boards.

(2) The Local Government shall define the local limits of the area in which any Board shall have jurisdiction.

(3) The Local Government shall determine the pecuniary limits of the jurisdiction of the Board, provided that no Board shall have jurisdiction to make a settlement between a debtor and his creditors if the total debts of the debtor exceed Rs. 10,000 or such larger amount as the Local Government may prescribe for any area.

(4) Such Board shall consist of a chairman and two or more members to be appointed by the Local Government which may, for reasons to be recorded in writing, cancel the appointment of any member or dissolve any Board.

(5) The Chairman and every member of a Board so established shall be appointed for a term not exceeding three years, but shall be eligible for re-appointment on the expiry of his term.

(6) The quorum of a Board shall be prescribed by the Local Government.

(7) Where the chairman and members of a Board are not unanimous, the opinion of the majority shall prevail, and if the Board is equally divided, the chairman shall exercise a casting vote.

9. A debtor or any of his creditors may apply to the Board appointed for the area in which a debtor resides or holds any land, to effect a settlement between the debtor and his creditors.

Application for settlement between debtor and his creditors.

Provided that no application shall be made if the debtor's debts exceed ten thousand rupees or such larger sum as the local Government may prescribe for any particular area,

9. Every application to a Board shall be in writing and be signed by the applicant.

Verification of application.

10. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely,—

Particulars to be stated in application.

- (a) a statement that he owes the prescribed amount of debts ;
- (b) the place where he resides or holds his land ;
- (c) the particulars of all claims against him, together with the names and residences of his creditors ;
- (d) the particulars of all his property, together with a specification of the value of such property and the place or places at which any such property is to be found ;
- (e) a statement that he is unable to pay his debts.

(2) Every application presented by a creditor shall contain the following particulars, namely,—

- (a) the place where the debtor resides or holds his land ;
- (b) the amount or particulars of his claim against such debtor ;
- (c) a statement that the debtor owes the prescribed amount of debts ;
- (d) a statement that the debtor is unable to pay his debts.

11. (1) On receipt of an application under section 8, the Board shall pass an order fixing a date and place for hearing the application :

Procedure on receipt of application.

Provided that the Board may at any time dismiss the application if, for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and his creditors.

(2) Notice of the order under sub-section (1) shall be sent to creditors by registered post, and, where the debtor is not the applicant notice of the order under sub-section (1) shall be sent to him in a similar manner.

12. (1) If, after examining the debtor the Board is of opinion that it is desirable to effect a settlement between him and his creditors it shall publish, in such manner as may be prescribed, a notice, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be submitted to the Board in writing within two months from the date of publication of the notice :

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions

Notice calling upon creditors to submit statements of debts.

10. Every application to a Board shall be in writing and be signed by the applicant and verified in such manner as may be prescribed.

Verification of application.

11. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely,—

Particulars to be stated in application.

- (a) the place where he resides or holds land ;
- (b) the particulars of all claims against him together with the names and residences of his creditors ;
- (c) the particulars of all his property, together with a specification of the value of such property and the place or places at which any such property is to be found ;
- (d) a statement that he is unable to pay his debts, and that they do not exceed ten thousand rupees or the prescribed amount.

(2) Every application presented by a creditor shall contain the following particulars, namely,—

- (a) the place where the debtor resides or holds land ;
- (b) the amount or particulars of his claim against such debtor ;
- (c) a statement that the debtor owes not more than ten thousand rupees or the prescribed amount ;
- (d) a statement that the debtor is unable to pay his debts.

12. (1) On receipt of an application under section 9, the Board shall pass an order fixing a date and place for hearing the application.

Procedure on receipt of application.

(2) Notice of the order under sub-section (1) shall be sent to creditors by registered post with acknowledgment due, and where the debtor is not the applicant, notice of the order under sub-section (1) shall be sent to him in a similar manner.

13. (1) On the date fixed the Board shall publish, in such manner as may be prescribed, a notice, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be submitted to the Board in writing within two months from the date of publication of the notice :

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions within the time fixed, it may extend the

Notice calling upon creditors to submit statements of debts.

within the time fixed, it may extend the period for the submission of his statement of the debts owed to him.

(2) Every debt, of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

13. (1) Every creditor submitting in compliance with a notice issued under sub-section (1) of section 12 a statement of the debts owed to him shall furnish, along with such statement, full particulars of all such debts, and shall at the same time produce all documents (including entries in books of account) on which he relies to support his claims, together with a true copy of every such document.

Procedure on submission of statements of debts.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

14. The Board shall call upon the debtor and each creditor to explain his case regarding each debt, and shall use its best endeavours to induce them to arrive at an amicable settlement.

Board to attempt amicable settlement.

Any Board empowered under this Act may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on civil courts by the Code of Civil Procedure, and every proceeding before the Board shall be deemed a judicial proceeding.

Power of Board to require attendance of persons and production of documents and to receive evidence.

16. (1) If the debtor and creditors to whom not less than sixty per cent. of the total amount of the debtor's debts are due come to an amicable settlement, the Board shall forthwith reduce such settlement to writing in the form of an agreement setting forth the amounts payable to each creditor and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed

Agreement of amicable settlement, its registration and effect.

period for the submission of his statement of the debts owed to him.

(2) Every debt, of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1), shall be deemed for all purposes and all occasions to have been duly discharged :

Provided that if a creditor proves to the satisfaction of the Board, or, if the Board has ceased to exist, to the satisfaction of a civil court, that the notice was not served on him and that he had no knowledge of its publication, the Board or court may revive the debt.

14. (1) Every creditor submitting in compliance with a notice issued under sub-section (1) of section 13 a statement of the debts owed to him shall furnish, along with such statement, full particulars of all such debts, and shall at the same time produce all documents (including entries in books of account) on which he relies to support his claims, together with a true copy of every such document.

Procedure on submission of statements of debts.

Provided that a decree or order of a civil court shall be conclusive evidence as to the amount of the debt to which the decree relates, but the amount may be reduced as the result of an agreement arrived at in accordance with sections 17 and 19.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

15. The Board shall call upon the debtor and each creditor to explain his case regarding each debt, and shall use its best endeavours to induce them to arrive at an amicable settlement.

Board to attempt amicable settlement.

16. Any Board empowered under this Act may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on civil courts by the Code of Civil Procedure, and every proceeding before the Board shall be deemed a judicial proceeding.

Power of Board to require attendance of persons and production of documents and to receive evidence.

17. (1) If the debtor and all or any of the creditors come to an amicable settlement, the Board shall forthwith reduce such settlement to writing in the form of an agreement setting forth the amounts payable to each creditor and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the parties. *Provided that if the Board is unanimously*

Agreement of amicable settlement, its registration and effect.

or otherwise authenticated by the Board and the parties.

XVII of 1908.

(2) An agreement thus made shall within seven days from the date of its authentication be registered under the Indian Registration Act, 1908, by the Chairman of the Board in such manner as may be prescribed, and it shall then take effect as if it were a decree of a civil court.

17. If no amicable settlement is arrived at under sub-section (1) of section 16, the Board shall dismiss the application.

Power of Board to dismiss application.

18. (1) Where, during the hearing of any application made under section 8, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor.

Grant of certificate by Board in respect of debts.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of registration under section 16 or certification under sub-section (1) in excess of simple interest at six per cent. per annum on the amount due on the date of such certificate.

Power of Court to disallow costs or interest.

(3) Where, after the registration of an agreement under sub-section (2) of section 16 or certification any unsecured creditor sues for the recovery of a debt in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such registration any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed until all amounts recorded as payable under such agreement have been paid.

V of 1908.

19. No civil court shall entertain —

Bar of civil suits.

(a) any suit—

- (i) to question the validity of any procedure or the legality of any agreement made under this Act, or
(ii) to recover any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of sec-

the opinion that the period fixed for payment is excessive, the Board may refuse to authenticate the agreement. The Board shall also pass an order dismissing the application so far as it relates to the creditors who have not come to an amicable settlement.

(2) An agreement thus made shall take effect as if it were a decree of a civil court having jurisdiction in the area.

18. If in the opinion of the Board any applicant fails to conduct his application with due diligence, the Board may dismiss the application at any stage.

Dismissal of applications in default.

19. (1) Where, during the hearing of any application made under section 9, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor.

Grant of certificate by Board in respect of debts.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of certification under sub-section (1) in excess of simple interest at six per cent. per annum on the amount due on the date of such certificate.

Power of Court to disallow costs of interest.

(3) Where after the date of an agreement made in accordance with section 16 or certification any unsecured creditor sues for the recovery of a debt in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such agreement, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed until six months after the expiry of the period fixed in the agreement authenticated under sub-section (1) of section 17.

20. No civil court shall entertain —

Bar of civil suits.

(a) any suit—

- (i) to question the validity of any procedure or the legality of any agreement made under this Act, or
(ii) to recover any debt recorded as wholly or partly payable under an agreement made in accordance with section 17 from any

tion 16 from any person who, as a debtor, was party to such agreement, or

(iii) to recover any debt which has been deemed to have been duly discharged under sub-section (2) of section 12;

(b) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 18.

20. No appeal or application for revision shall lie against any order passed by a Board.

Bar of appeal or revision.

21. A Board may, on the application from any person interested, review any order passed by it and pass such order in reference thereto as it thinks fit:

Power of Board to review its order.

Provided that no order shall be reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

22. In any proceedings under this Part of the Act any party may with the permission of the Board be represented by an agent authorised in writing, but not by a legal practitioner.

Appearance of party before Board by agent, but not by legal practitioner.

23. When an application has been made to a Board under section 8, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the Board has dismissed the application or an agreement has been registered under sub-section (2) of section 16.

Suspension of pending application or suit.

24. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code.

Members of Boards deemed to be public servants.

25. The local Government may make any rules consistent with this Act to carry out the purposes thereof, and in particular and without prejudice to the generality of the foregoing power may make rules—

Power to make rules.

(a) prescribing the amount of debt for the purposes of section 6 (2);

person who, as a debtor, was party to such agreement, or

(iii) to recover any debt which has been deemed to have been duly discharged under sub-section (2) of section 13:

(b) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 19.

21. No appeal or application for revision shall lie against any order passed by a Board.

Bar of appeal or revision.

22. A Board may, on the application from any person interested, review any order passed by it and pass such order as it thinks fit:

Power of Board to review its order.

Provided that it shall not under this section pass an order reversing or modifying any order affecting any person interested without giving such person an opportunity of being heard.

23. In any proceedings under this part of the Act, any party may with the permission of the Board be represented by an agent authorised in writing or by a legal practitioner.

Appearance of party before Board by agent or by legal practitioner.

24. When an application has been made to a Board under section 8, no Civil Court shall entertain any new suit or other proceeding brought for the recovery of any debt for the settlement of which application has been made to the Board, and any suit or other proceeding pending before a Civil Court in respect of any such debt shall be suspended until the Board has dismissed the application or an agreement has been made under section 17.

Bar to new suits and applications and suspension of pending suits and applications.

25. The time spent in proceedings before a Conciliation Board and the time during which a person is debarred from suing or executing his decree under the provisions of Part IV shall be excluded when counting the period of limitation for any suit or application.

Extension of limitation.

26. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code.

Members of Boards deemed to be public servants.

27. (1) The local Government may make any rules consistent with this part of the Act to carry out the purposes thereof, and in particular and without prejudice to the generality of the foregoing power may make rules—

Power to make rules.

(a) prescribing the amount of debt for the purposes of section 8 (3);

- (b) prescribing the quorum for and regulating the procedure before a Board ;
- (c) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid ;
- (d) prescribing the records to be kept and the returns to be made by a Board ;
- (e) prescribing the allowances to be paid to members of a Board ;
- (f) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 16 ;
- (g) prescribing the form of certificate to be granted under sub-section (1) of section 18 ; and
- (h) generally, for the purpose of carrying into effect the provisions of this Act.

26. In making any rule the local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues.

PART V.

WARRANT OF ARREST.

27. In Order 21, Rule 87 (1), of the Code of Civil Procedure for the word "may" after the words "the court" and before the words "instead of issuing a warrant for his arrest" the word "shall" shall be substituted.

28. In Order 21, Rule 40 (2), of the Code of Civil Procedure for the word "may" between the words "the court" and the words "take into consideration" the word "shall" shall be substituted.

PART VI.

DAMDUPAT.

29. (1) In any suit brought, after the commencement of this Act, against an agriculturist for the recovery of a loan borrowed before the commencement of this Act, no court shall grant a decree in satisfaction both of principal and interest for a larger sum than twice the amount which the Court finds to have been due at the commencement of this Act.

- (b) prescribing the quorum for and regulating the procedure before a Board ;
- (c) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid ;
- (d) prescribing the records to be kept and the returns to be made by a Board ;
- (e) prescribing the allowances to be paid to members of a Board ;
- (f) prescribing the place at which and the manner in which an agreement shall be registered ;
- (g) prescribing the form of certificate to be granted under sub-section (1) of section 19 ; and
- (h) generally, for the purpose of carrying into effect the provisions of this part of the Act.

(2) The power conferred by this section of making rules is subject to condition that the rules be made after previous publication.

28. In making any rule the Local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues.

PART V.

DAMDUPAT.

29. (1) In any suit brought, after the commencement of this Act, against a debtor as defined in section 7 for the recovery of a loan borrowed before the commencement of this Act, no court shall grant a decree in satisfaction both of principal and interest for a larger sum than twice the amount which the Court finds to have been due at the commencement of this Act.

(2) In any suit brought against an agriculturist for the recovery of a loan borrowed after the commencement of this Act, no court shall pass a decree for a larger sum than twice the amount of the sum taken as principal.

(3) Notwithstanding anything to the contrary in this Act, a court may grant a decree to a Bank against an agriculturist for any sum found due.

PART VII.

DEPOSIT IN COURT.

30. (1) An agriculturist debtor may, at any time, deposit in court a sum of money in full or part payment of his debt for payment to his creditor.

(2) The court on receipt of such deposit shall give notice thereof to the creditor and shall, on his application, pay the sum to him.

(3) From the date of such deposit interest shall cease to run on the sum so deposited.

31. (1) The Local Government may make rules for carrying into effect the provisions of this part of the Act.

Power of Local Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide—

- (a) for determining the court into which the sum shall be deposited;
- (b) the procedure for keeping accounts of such deposits and the manner in which notices are to be served on creditors and payments made to them.

(2) In any suit brought against a debtor as defined in section 7 for the recovery of a loan borrowed after the commencement of this Act, no court shall pass a decree for a larger sum than twice the amount of the sum taken as principal.

PART VI.

DEPOSIT IN COURT.

30. (1) Any person who owes money may at any time deposit in court a sum of money in full or part payment to his creditor.

Deposit in court.

(2) The court on receipt of such deposit shall give notice thereof to the creditor and shall, on his application, pay the sum to him.

(3) From the date of such deposit interest shall cease to run on the sum so deposited.

31. (1) The Local Government may make rules for carrying into effect the provisions of this part of the Act.

Power of Local Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide—

- (a) for determining the court into which the sum shall be deposited;
- (b) the procedure for keeping accounts of such deposits and the manner in which notices are to be served on creditors and payments made to them.

(3) The power conferred by this section of making rules is subject to condition that the rules be made after previous publication.

PART VII.

32. In section 1, sub-section (3) (a) of the Redemption of Mortgages (Punjab) Act, 1913, "50 acres" shall be substituted for "30 acres," and in sub-section (3) (b) of the same section for the figure "1,000" the figure "5,000" shall be substituted.

Amendment of section 1 (3) (a) of the Redemption of Mortgages (Punjab) Act, 1913.

PART VIII.

MISCELLANEOUS AMENDMENTS OF THE CIVIL LAW.

33. Notwithstanding anything to the contrary contained in any other law for the time being in force, no debtor shall be liable to arrest for default in the payment of any money due under a decree:

Warrant of arrest.

Provided that the court may, on the application of the decree-holder and after an opportunity has been given to the debtor to

be heard, direct the arrest of the latter if it is proved to the satisfaction of the court that—

- (a) the decree was for a sum for which the debtor was bound in a fiduciary capacity to account ;
- (b) the debtor had transferred, concealed or removed any part of his property after the date of the institution of the suit in which the decree was passed deliberately with the object of obstructing or delaying the decree-holder in the execution of the decree ;
- (c) the debtor has given undue preference to any of his creditors with the object of defrauding his remaining creditors ;
- (d) the debtor has, without just cause, refused or neglected to pay the amount of the decree or some part thereof when he has, or since the date of the decree has had the means of paying it.

Explanation.—The expression “means of paying” shall not be deemed to include such property belonging to a debtor as is exempt from attachment or sale in execution of a decree.

34. In section 60 (1) (c) of the Code of Civil Procedure, 1908, for the words “occupied by him” the following words shall be substituted :—

Amendment of section 60 (1) (c) of the Code of Civil Procedure, 1908.

“not let out on rent or let to others or left vacant for a period of a year or more.”

35. In Order XXI, Rule 2, of the Code of Civil Procedure, 1908, sub-rule (3) shall be omitted.

Amendment of Order XXI, Rule 2, of the Code of Civil Procedure, 1908.

36. For the words “twelve” wherever they occur in section 48 of the Code of Civil Procedure, 1908, the words “six years” shall be substituted. At the end of sub-section (i) add the following proviso :—

Amendment of section 48 of the Code of Civil Procedure, 1908.

“Provided that in the case of a decree passed before the commencement of this Act the period of limitation shall be that existing immediately before this Act comes into force or six years, whichever is less.”

37. (1) Notwithstanding anything contained in any other enactment for the time being in force, whenever a civil court orders that agricultural land belonging to an agriculturist should be attached and alienated temporarily to the decree-holder in satisfaction of a decree the proceedings of such attachment and alienation shall be transferred to the Collector, who shall decide the period of alienation after making such enquiry as he deems necessary.

Execution of decrees by temporary alienation of agricultural land.

REPORT
OF THE
Select Committee on the Punjab
Debtors' Protection (Amendment) Bill.

[BILL NO. 7 OF 1938.]

X9(J):6:(2236).N38t

98

Report of the Select Committee on the Punjab Debtors' Protection (Amendment) Bill.

THE Punjab Legislative Assembly at its meeting held on the 5th April, 1938, decided that Punjab Debtors' Protection (Amendment) Bill be referred to a Select Committee consisting of the following :—

The Hon'ble Minister for Finance (*Chairman*).

The Hon'ble Minister for Development.

The Advocate-General.

Pir Akbar Ali.

Major Sardar Muhammad Nawaz Khan.

Diwan Chaman Lall.

K. B. Nawab Chaudhri Fazl Ali.

Mir Maqbool Mahmood.

Sardar Pritam Singh.

Chaudhri Anant Ram.

R. B. Mr. Mukand Lal Puri.

Sardar Sampuran Singh.

Raja Fateh Khan.

Nominee of the Hon'ble Speaker (Sardar Dasaundha Singh, Deputy Speaker).

The Committee met on Saturday, the 9th April, 1938. The last four members could not attend. The Secretary, Legislative Department, acted as Secretary of the Committee.

It was decided that the new section should come after section 4 of the Punjab Debtors' Protection Act, 1936, and that clause 2 of the Bill should read as follows :—

After section 4 of the Punjab Debtors' Protection Act, 1936, the following section shall be inserted, namely :—

“ 4-A.—Notwithstanding anything contained in the Code of Civil Procedure, when and in so far as a decree contains an order for the payment of money, such order shall not be executed by the appointment of a receiver of—

(a) land or the produce of land or an interest in land, except for the protection of produce or other moveable property which may be validly attached and has been so attached, or

(b) any property which is exempt from attachment or sale under any law for the time being in force ;

nor shall any property for which a receiver may not be appointed be sold without attachment in execution of such an order. ”

A copy of the Bill as amended by the Committee is appended. The Bill was originally published in the *Punjab Gazette Extraordinary*, dated 25th March, 1938. As the Bill has not been substantially altered it is, in the Committee's opinion, unnecessary to republish it.

MANOHAR LAL.

CHHOTU RAM.

M. SLEEM.

D. CHAMAN LALL.

MAQBOOL MAHMOOD.

AKBAR ALI.

FAZL ALI.

PRITAM SINGH SINDHU.

ANANT RAM.

MOHAMMAD NAWAZ.

Insertion of new section in Act II of 36.

Limitation on execution of money decrees.

ANNEXURE TO THE REPORT.

[Bill as introduced in the Assembly on the
5th April 1938.]

[Bill as amended by the Select Committee—

BILL No. 7 OF 1938.

(The amendments made are shown in *italics*.)

THE PUNJAB DEBTORS' PROTECTION (AMENDMENT) BILL.

A Bill to amend the Punjab Debtors' Protection Act, 1936.

WHEREAS it is expedient to amend the Punjab Debtors' Protection Act, 1936, for the purpose hereinafter appearing: It is hereby enacted as follows:—

1. This Act may be called the Punjab Debtors' Protection (Amendment) Act, 1938.

2. After Section 11 of the Punjab Debtors' Protection Act, 1936, the following section shall be inserted, namely:—

11-A. Notwithstanding anything contained in section 51 of the Code of Civil Procedure, when and in so far as a decree contains an order for the payment of money, such order shall not be executed by the appointment of a receiver of land or the produce of land or an interest in land, or of any property which is exempt from attachment or sale under any law for the time being in force, except for the protection of produce or other moveable property which may be validly attached and has been so attached; nor shall any property for which a receiver may not be appointed be sold without attachment in execution of such an order.

3. If any Court has appointed a receiver of property of which a receiver could not be appointed after the provisions of this Act come into force, such appointment shall terminate on the expiration of six months from the date on which this Act comes into force, unless terminated earlier by the Court which made the appointment.

THE PUNJAB DEBTORS' PROTECTION (AMENDMENT) BILL.

A Bill to amend the Punjab Debtors' Protection Act, 1936.

WHEREAS it is expedient to amend the Punjab Debtors' Protection Act, 1936, for the purpose hereinafter appearing: It is hereby enacted as follows:—

1. This Act may be called the Punjab Debtors' Protection (Amendment) Act, 1938.

2. After Section 4 of the Punjab Debtors' Protection Act, 1936, the following section shall be inserted, namely:—

“4-A. Notwithstanding anything contained in the Code of Civil Procedure, when and in so far as a decree contains an order for the payment of money, such order shall not be executed by the appointment of a receiver of—

(a) land or the produce of land or an interest in land, except for the protection of produce or other moveable property which may be validly attached and has been so attached, or,

(b) any property which is exempt from attachment or sale under any law for the time being in force;

nor shall any property for which a receiver may not be appointed be sold without attachment in execution of such an order.”

3. If any Court has appointed a receiver of property of which a receiver could not be appointed after the provisions of this Act come into force, such appointment shall terminate on the expiration of six months from the date on which this Act comes into force, unless terminated earlier by the Court which made the appointment.

S. L. SALE,

Secretary, Legislative Department, Punjab.

SIMLA :

The 10th June, 1938. }

ABNASHA SINGH,

Secretary, Punjab Legislative Assembly.

PUNJAB LEGISLATIVE ASSEMBLY.

BILL No. 9 OF 1938.

THE PUNJAB ALIENATION OF LAND (FURTHER AMENDMENT) BILL.

A Bill further to amend the Punjab Alienation of Land Act, 1900.

WHEREAS it is expedient further to amend the Punjab Alienation of Land Act, 1900, for the purposes hereinafter appearing :

It is hereby enacted as follows :—

1. (1) This Act may be called the Punjab Alienation of Land (Further Amendment) Act, 1938.

(2) It shall come into force on such day as the Governor of the Punjab may by notification direct.

2. After clause (6) of section 2 of the Punjab Alienation of Land Act, 1900 (hereinafter referred to as the said Act), the following clauses shall be added :—

Insertion of new clauses (7) and (8) in section 2 of Act XIII of 1900.

"(7) 'Alienor' includes any person transferring an interest in land by way of sale, mortgage, lease or farm, together with the assignee or representative in interest of any such person.

(8) 'Revenue Officer' includes a Deputy Commissioner or any other officer exercising the powers of a Deputy Commissioner under this Act."

3. Section 4 of the said Act shall be renumbered as sub-section (1) of that section, and to that section, as renumbered, the following sub-sections shall be added, namely :—

Insertion of new sub-sections (2) and (3) in section 4 of Act XIII of 1900.

"(2) If any question or doubt should arise as to whether a person is or is not a member of a notified agricultural tribe, the Deputy Commissioner shall determine whether that person is to be deemed to be a member of an agricultural tribe for the purposes of this Act.

(3) In passing an order under the above sub-section the Deputy Commissioner shall not be bound by any decree of a civil court, and may review any order previously passed under that sub-section.

(4) An appeal shall lie to the Commissioner against any such order by the Deputy Commissioner whether passed in original or on review ; provided that no appeal shall be competent unless instituted within one month of the date of such order, subject to deduction of the time occupied in obtaining copies of the order appealed against."

4. Before section 14 of the said Act, the following heading and section shall be inserted, namely :—

Insertion of new section 13-A in Act XIII of 1900.

" III-A.—Benami Transactions.

13-A. (1) When a sale, mortgage, lease or farm purports to be made by a member of an agricultural tribe or of a tribe in the same group, but the effect of the transaction is to pass the beneficial interest to a person who is not a member of the same tribe or of a tribe in the same group, the transfer shall be void for all purposes, and the alienor shall be entitled to possession of the land so alienated, notwithstanding the fact that he may have himself intended to evade the provisions of this Act.

(2) If the Deputy Commissioner is satisfied after making due enquiries from the parties concerned and recording evidence, that an alienation is void under the provisions of the previous sub-section, he may, either of his own motion, or on the application of the person entitled to possession, by order in writing recording his reasons therefor, eject any person occupying the land under such sale, lease, farm or mortgage, and place the alienor in possession.

(3) No suit shall lie in any civil court in respect of any matters decided by any order of a Deputy Commissioner made under the provisions of the preceding sub-section, but the Deputy Commissioner may review any order passed under that sub-section. An appeal shall lie to the Commissioner against any such order by the Deputy Commissioner whether passed in original or on review ; provided that no appeal shall be competent unless instituted within one month of the date of such order, subject to deduction of the time occupied in obtaining copies of the order appealed against."

STATEMENT OF OBJECTS AND REASONS.

It is not uncommon that the decisions of civil courts in the matter of a grant of declaration of status to an individual in any particular tribe are inconsistent with the findings of the Deputy Commissioners, thus creating embarrassing situations. An amendment of section 4 of the Act is therefore considered necessary to enable the Deputy Commissioner to determine finally whether any person is to be deemed to be a member of an agricultural tribe or not. It will still be possible to obtain the decision of a civil court on questions of caste for any other purpose; but as the declarations are usually sought at present only in connection with questions arising out of the Act, the effect of the amendment read with section 21 will be to stop litigation on such questions. Provision is made for review in order that a final decision may not be obtained by means of collusive proceedings and also in order to provide for review when different orders are passed in different districts.

2. The main object of the amendment to section 18 is to prevent fraudulent transactions and to secure that a *benami* transfer intended to evade the provision of the Act can be reversed in all cases. This cannot be done at present, if the alienor has joined in the evasion. Government had hoped to cope with this evil by executive instructions; their efforts were, however, unsuccessful. The amendment allows possession to be restored by the Deputy Commissioner to the original alienor as in cases falling under the present section 18.

SUNDAR SINGH MAJITHIA,

Minister in charge.

S. L. SALE,

Secretary to Government, Punjab,
Legislative Department.

SIMLA-S. W. :

ABNASHA SINGH,

The 15th June, 1938.

Secretary, Punjab Legislative Assembly.

N. B.—This Bill was published in the *Punjab Government Gazette Extraordinary*, dated the 16th June, 1938, under rule 25 of the Punjab Legislative Assembly Rules.

PUNJAB LEGISLATIVE ASSEMBLY.

BILL No. 7 of 1938.

THE PUNJAB DEBTORS' PROTECTION (AMENDMENT) BILL.

[Bill as introduced in the Assembly on the 5th April, 1938.]

A Bill to amend the Punjab Debtors' Protection Act, 1936.

WHEREAS it is expedient to amend the Punjab Debtors' Protection Act, 1936, for the purpose hereinafter appearing: It is hereby enacted as follows:—

1. This Act may be called the Punjab Debtors' Protection (Amendment) Act, 1938.
Short title.

2. After Section 11 of the Punjab Debtors' Protection Act, 1936, the following section shall be inserted, namely:—
Insertion of new section in Act II of 1936.

11-A. Notwithstanding anything contained in section 51 of the Code of Civil Procedure, when and in so far as a decree contains an order for the payment of money, such order shall not be executed by the appointment of a receiver of land or the

produce of land or an interest in land, or of any property which is exempt from attachment or sale under any law for the time being in force, except for the protection of produce or other moveable property which may be validly attached and has been so attached; nor shall any property for which a receiver may not be appointed be sold without attachment in execution of such an order.

3. If any Court has appointed a receiver of property of which a receiver could not be appointed after the provisions of this Act come into force, such appointment shall terminate on the expiration of six months from the date on which this Act comes into force, unless terminated earlier by the Court which made the appointment.
Existing Receivers.

STATEMENT OF OBJECTS AND REASONS.

It has lately been held that section 18 of the Colonisation of Government Lands (Punjab) Act, 1912, which prohibits the attachment or sale in execution of any of the rights or interests vested in a Government tenant, does not debar execution against those rights and interests by the appointment of a receiver under clause (d) in section 51 of the Code of Civil Procedure. If the practice of executing by the appointment of a receiver were generally adopted, it is apparent that the intention of section 18 of the Act quoted, and the provisions of the other Punjab Acts which exempt certain kinds of property from attachment or sale in execution, would be defeated. The Punjab Government propose, in this Bill, to prohibit execution by the appointment of a receiver to administer property which is protected from attachment or sale.

2. Provisions have been included for the termination, at the earliest convenient moment, of all receiverships of protected property which may have already been ordered.

MANOHAR LAL,

Member in Charge.

R. B. BECKETT,

Secretary, Punjab Legislative Department.

LAHORE :

The 7th April, 1938.

ABNASHA SINGH,

Secretary, Punjab Legislative Assembly.

N. B.—This Bill was published in the Punjab Government Gazette Extraordinary, dated the 26th March, 1938, under Rule 25 of the Punjab Legislative Assembly Rules.

PUNJAB LEGISLATIVE ASSEMBLY.

BILL No. 10.

THE PUNJAB REGISTRATION OF MONEY-LENDERS BILL.

Preamble.—WHEREAS it is expedient to exercise effective control over money-lenders in the pursuit of their profession it is hereby enacted as follows :—

1. Short title and commencement.—(1) This Act shall be called the Punjab Registration of Money-lenders Act, 1938.

(2) It shall extend to the Punjab.

(3) It shall come into force on such date as the Punjab Government may, by notification, direct.

2. Definitions.—In this Act, unless there is anything repugnant in the subject of context—

(1) “ Bank ” means a company carrying on the business of banking and registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the India Legislature.

(2) “ Collector ” means the Collector of the District or such other officer as may be specially empowered by the Provincial Government to discharge the functions of a Collector for the purposes of this Act.

(3) “ Commissioner ” means the Commissioner of the Division in which the money-lender is registered.

(4) “ Company ” means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or by Royal Charter or Letters Patent and includes Life Assurance Companies to which the Indian Life Assurance Companies Act, 1912, applies.

(5) “ Co-operative Society ” means a society registered under the provisions of Co-operative Societies Act, 1912.

(6) “ Court ” includes an official receiver.

(7) “ Loan ” means an advance of money made with the object of pecuniary gain, whether secured or not, together with any other advance either in cash or in kind which the court may find in substance to be a loan, but shall not include an advance in cash or kind made by a landlord to a tenant for the purposes of husbandry.

(8) “ Money-lender ” means a person, including a firm, but not being a bank or a company or a co-operative society, who carries on the business of advancing loans, and shall include the legal representatives and the successor-in-interest of such person whether by inheritance, assignment or otherwise.

(9) “ Prescribed ” means prescribed by rules made under the Act.

3. Suits and applications by money-lenders barred, unless money-lender is registered.—Notwithstanding anything contained in any other enactment for the time being in force, no Court shall, after the commencement of this Act, entertain any suit, by a money-lender for the recovery of a loan, or application for the execution of any decree relating to a loan unless at the time of the claim, the money-lender—

(i) is registered in accordance with the rules made under this Act, and

(ii) holds a valid license.

4. Registration of money-lenders.—Every money-lender shall apply to have his name registered at the office of the Collector on payment of such fees and on furnishing such particulars as may be prescribed.

5. Licensing of money-lenders.—Every money-lender shall within 6 months of the commencement of this Act obtain a licence from the Collector on payment of such fees as may be prescribed, and in the form and subject to such conditions as may be prescribed.

Explanation.—When an application for the renewal of a licence has been received from a licensed money-lender before the expiry of his licence the existing licence shall be deemed to continue in force until orders on the application have been issued.

1912.

1912.

6. Where licence may be cancelled.—A licence may be cancelled by the Collector for such a period as may be specified by him, if a money-lender—

- I of 1930. (i) has been held by a Court to have contravened the provisions of section 3 of the Regulation of Accounts Act, more than once ;
- VII of 1934. (ii) has had his suit dismissed, in whole or in part, under section 37 of the Punjab Relief of Indebtedness Act ;
- (iii) has had his suit dismissed for having made dishonestly or fraudulently, a material alteration in any document relating to a loan ;
- (iv) has had his suit dismissed as vexatious, fraudulent or frivolous ;
- (v) has been found by a Court of law to have charged higher rates of interest after the commencement of the Act than those prescribed under section 5 of the Punjab Relief of Indebtedness Act ;
- VII of 1934. (vi) has been found guilty by a Court of law of forgery or cheating in respect of a money transaction, provided that such forgery or cheating had been committed after the commencement of this Act.

7. When Collector may act.—The Collector may take proceedings *suo motu* or on the application of any person, for the cancellation of a money-lender's licence.

8. Effect of cancellation of licence.—The name of a money-lender whose licence has been cancelled under section 6, shall be struck off the register maintained at the office of the Collector for the registration of money-lenders, and shall not be restored during the period for which the Collector has ordered under section 6 that the licence be cancelled.

9. Bar to civil suits and saving.—No Court shall entertain a suit for the recovery of a loan, or an application for the execution of a decree

by a money-lender, on a date when the name of the money-lender is not entered in the register maintained at the office of the Collector for the registration of money-lenders, provided that nothing in this Act shall apply to suits or applications already pending at the commencement of this Act or on the date when the money-lender's licence is cancelled.

10. Registration after cancellation of licence.—A money-lender may, after the termination of the period for which his licence was cancelled, apply to have himself registered and obtain a licence on the payment of the prescribed fees.

11. An appeal against an order cancelling a licence shall lie to the Commissioner whose order shall be final. Provided that the appeal shall be instituted within 30 days of the order appealed against.

12. Rule making power.—(1) The Provincial Government may make rules, subject to the condition of previous publication, for carrying into effect the provisions of this Act ;

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide—

- (a) for determining the place where a money-lender shall apply for registration or obtain a licence, the district or districts in which a money-lender who operates in more than one district shall be required to register, and the area of validity of licences.
- (b) for determining the scale of fees payable for the issue or renewal of a licence or registration of the name of a money-lender.
- (c) for prescribing the form of a licence ; and the condition under which a licence shall be issued ; and
- (d) for the particulars which a money-lender shall supply at the time of being registered.

STATEMENT OF OBJECTS AND REASONS.

The question of requiring all money-lenders to be registered as is the practice in other countries has been considered more than once, and it is thought that the time has now come for legislation. This is necessary in order to control money-lending transactions and to check malpractices on the part of certain dishonest lenders. It is also in the interests of honest money-lenders that the profession should be purged of dishonest members whose methods and exactions create a feeling of suspicion and hostility against the profession as a whole. Companies, banks and insurance companies which have to deal with an enlightened public are required to submit to regulation, and there is no reason why similar principles should not be followed in the case of money-lenders who have to deal with the illiterate.

The bill gives effect to the recommendation for the regulation of money-lending and registration of money-lenders contained in paragraph 11 of the Report of the Reserve Bank of India (Agricultural Credit Department) made under section 55 (1) of the Reserve Bank of India Act. It is further a step towards the fulfilment of an undertaking which the

Premier gave to a recent deputation as to agriculturist money-lenders being placed for the purposes of the Alienation of Land Act in the same position as non-agriculturists in the XIII of 1900. matter of the power to purchase land. The Alienation of Land Act will be amended in XIII of 1900. due course so as to place agriculturist money-lenders registered under this bill on the same footing as non-agriculturists in this matter.

..

SIKANDER HYAT-KHAN,

Member-in-charge.

S. L. SALE,

Secretary, Legislative Department.

SIMLA,

The 17th June, 1938.

}

ABNASHA SINGH,

Secretary, Punjab Legislative Assembly.

To

His Excellency Sir Henry
Duffield Craik, Bart,

K. C. S. I.,
Governor of the Punjab,
SIMLA.

May it please Your Excellency,

The Restitution of Mortgaged Lands Bill was passed by the Assembly on the 21st of July 1938. It provides for the restitution of all subsisting mortgages effected before the 8th of June 1901. We object to this law because it is a measure of relief to the peasantry practically against certain classes and not against all. Its application to mortgages made upto 1901 and not afterwards makes it a highly discriminative measure. The proposal to apply this principle to all subsisting mortgages, whether made before or after 1901, was rejected by the Select Committee and subsequently also by the Assembly. The representatives of the National Progressive Party on the Select Committee were willing to accept a general measure of relief to the peasantry if that had been the real object of the law. But to withhold that relief in respect of mortgages effected after 1901, when the mortgages are in favour of agricultural tribes, displays that the object of the law is only to placate certain classes. There are 34,25,321 acres now held under mortgage by agricultural tribes and only 16,81,657 acres by non-agricultural tribes of which a large portion must be under section 6 of the Land Alienation Act which can be redeemed by proceedings under section 7. Why has the relief been withheld from mortgagors who mortgaged lands after 1901? The obvious reason is that it will take away lands from mortgagees who belong to agricultural tribes. Interference with rights in property validly transferred under the law, then and now existing is bad enough, but when that interference is characterised by invidious distinctions it is highly objectionable and productive of class rivalry of the worst kind. In Congress provinces, relief to the peasantry has not been given on caste lines. A law of such a discriminatory nature could have been passed only by an Assembly which consists of a majority of statutory agriculturists. The Franchise Committee envisaged the circumstances under which the non-agriculturists of the province have been placed, vide para 170 of the Report. Nothing was done by the Punjab Government to remove the disparity between the voting strength of the agriculturist and non-agriculturist classes as pointed out by the Committee.

(2) Section 298 (1) of the Government of India Act lays down that no subject of His Majesty domiciled in India shall, on grounds only of religion, place of birth, descent, colour or any of them, be in-eligible for office under the Crown in India, or be prohibited on any such grounds from acquiring, holding or disposing of property

or carrying on any occupation, trade, business or profession in British India. Clause 2 of the same section makes an exception in the case of such a law as the Land Alienation Act. Discrimination in respect of rights in property is condemned and it follows naturally that with the exception of the case mentioned in clause 2, further discrimination is not permissible. When, therefore, relief to the peasantry is denied in respect of 34 lakhs of acres held under mortgage by agricultural tribes, we cannot conceive that discrimination could go further. The obvious intention is to benefit agriculturists at the cost of non-agriculturists only. The rights of minorities can only be protected by prohibiting discrimination against them. We wish to point out that a minority can only be protected if discrimination against it is interdicted. Acquisition of rights in property has a sanctity about it, which should not be assailed.

(3) We invite Your Excellency's attention to section 111 of the Government of India Act. We are inclined to the view that British subjects are given this protection not as British subjects but because they are a small minority. Where rights in property are concerned invidious discrimination is highly objectionable. We do not mean that the section is applicable. We have quoted it simply to emphasise the principle involved.

(4) We submitted a representation to the Premier on the 10th of July, 1938. We asserted then and we assert now that a very large proportion of the mortgagees between 1873 and 1901 were Hindus and Sikhs, who did not belong to agricultural tribes. The agricultural tribes are a creation of the Land Alienation Act, which was passed for the protection of castes since designated as statutory agriculturists. The area held under mortgage by statutory agriculturists upto 1901 must be very small indeed. Since the letter of 10th July was written under the impression that the Bill would be passed as reported by the Select Committee, we have found, that the Act has been made applicable to all mortgages upto 1901. We want to know the area of mortgaged lands upto 1901 and subsisting upto now showing details community-wise and caste-wise unless our allegation that the mortgagees are mostly Hindus and Sikhs not belonging to agricultural tribes, is admitted. We learn that enquiry is being made by Government. Its result has not been communicated to us. In course of debate on the Bill, one of us asked the Premier to ascertain whether one community will not be more adversely affected than others. A member on behalf of the Government pointed out that it was not necessary as long as all communities were affected. We hold that this view is not correct. We invite Your Excellency's attention to section 112 (2) of the Government of India Act. We repeat that we do not mean that this section applies to the case, but we lay stress on the principle embodied in clause 2. Para 357 of the Report of the Joint Parliamentary Committee on Indian Constitutional Reforms explains that a law may not be discriminatory in form but it may be discriminatory in effect. A minority community has a legitimate grievance, if it is able to prove that it is more prejudicially affected than others.

(5) The Assembly consists of 175 members of whom a large majority, about 120, are statutory agriculturists. The party in power is Muslim League cum Unionist. Its position is fairly strong. The law passed is a device to ensure the return of this party in larger numbers in the next election. If the law is enforced and if it comes into effect there is no doubt that the party will be returned in a larger majority. What that party will do can be easily conceived. There is nothing in the constitution to prevent a future cabinet to upset sales. Those who purchased land before 1901 may, in future, be treated in more ways than one, unjustly and differently from those who purchased land after 1901. It is unnecessary to specify how this may be done. A law may be introduced proposing the restoration of all lands sold before 1901 within the areas of large municipal towns, in which there has been appreciation forty or fifty fold, on payment of compensation which may be adjudged to be fair by an assembly consisting of a majority of statutory agriculturists. The lands, in most cases, were owned by statutory agriculturists and the vendees were mostly non-agriculturists. This would mean caste domination of the worst kind. The lease of all areas held by persons who do not belong to agricultural tribes may be cancelled so that these areas may be available for distribution amongst members of agricultural tribes. If we are not mistaken, about 50,000 acres are held by Europeans. Section 107 of the Government of India Act read with item No. 10, part 1, of list number 3 (Concurrent legislative list) empowers the provincial legislature to cancel such leases. In fact if it were not for the last 8 words of item number 10, even, the present legislation would be *ultra vires*. No assurance by the present Premier that any extreme legislation of this kind will not be introduced, is of any use to us. A future politician may out-bid the present Premier and may take the extreme step of winning over the electorate to its side by holding out hopes of giving relief on caste lines indicated above. The issue, therefore, is of a momentous nature. It is, therefore, necessary for us to nip the evil in the bud and to take such action as may check the aggressive action of the agricultural castes on the rights of non-agricultural castes.

(6) The remedy which is in Your Excellency's hands is that of intervention under section 52 (1) (b) of the Government of India Act, read with para 9 of the Instrument of Instructions. The application of this section can be looked at from two points of view. This section, as explained in para 9, is applicable to religious minorities. The Hindus and Sikhs who are more adversely affected than others are religious minorities and the non-agricultural tribes amongst them are a smaller minority. They do not cease to be religious minorities because they are a smaller section of the Sikhs and Hindus as a whole. They as well as Christians, so long as there are separate electorates for them, are given special representation in the legislature. The words "classes of the people committed to his charge" in para 9, is a generic term and include castes, which is a matter of descent, though the non-agriculturists (Hindus, Mohammedans, Sikhs, Europeans and Christians) do not suffer "from lack of education or material

advantages", but there are "other causes", which are described in para 170 of the Report of the Franchise Committee on account of which "they cannot fully rely for their welfare upon joint political action in the legislature." We have already a coalition government, but for reasons which the Franchise Committee fully realised, these non-agricultural castes do suffer by the law and have "reasonable cause to fear neglect or oppression." We venture to think that in view of what has been stated in para 170 of the Report, the Instrument of Instructions gives a wider discretion and that in terms more general than would have been the case, if para 170 of the Report had not been in view to the framers of these Instructions. It remains now only to explain the last sentence of para 9 of the Instrument of Instructions, which is as follows:

"But he shall not regard as entitled to his protection any body of persons by reason only that they share a view on a particular question which has not found favour with the majority."

This sentence, if interpreted in a general and loose manner nullifies the provisions of section 52 (1) (b). The Governor's intervention is sought only where "a party of persons who form a minority do not agree on a particular question, which has found favour with the majority." Surely it does not cover questions relating to rights in property, interference with which is made on caste lines discriminative in effect and operation, if not in appearance. If such important questions as interference with rights in property of a group of castes in a minority is not covered by the expression "legitimate interests of minorities" we respectfully ask Your Excellency what are those matters which are covered by this expression. Surely any physical onslaught by a majority over a minority which has the appearance of a civil war is covered by Section 52 (1) (a). The question of the recruitment to services is covered by clause (3) of Section 298, and the concluding portion of para 9 of the Instrument of Instructions to the Governor.

(7) If Legal Advisers of the Government of Punjab are of opinion that section 52 (1) (b) of the Government of India Act does not apply then we pray that reference may be made to the Secretary of State asking him whether the case is covered by para 9 of the Instrument of Instructions, as interpreted by us or we may be given time to approach the Governor-General under section 213 of the Government of India Act to obtain the opinion of the Federal Court on the legal question involved. *Under the peculiar conditions prevailing in the Punjab and in the Punjab Assembly, of which people outside the Province are not aware but which Your Excellency understands well, a group of castes in a minority needs as much protection as a religious minority. One can change his religion, but not his caste.*

(8) If Your Excellency is convinced that this is a law which forms a highly objectionable precedent and that in itself it is of a character which encroaches on the rights of minorities, Your Excellency may before giving assent take other action as prescribed in sections 75 and 76 of the Government of India Act. If assent is withheld no party suffers. All that is demonstrated and established is that agriculturists cannot be relieved at the cost of non-agricul-

tourists only and that a measure which refuses relief to the mortgagors of 34 lakhs of acres and gives it only to the mortgagors of a much smaller area held mainly by non-agriculturists, cannot be allowed to take effect. It puts the mentality of the ministry on the right lines, namely that of giving relief to the peasantry without distinction of caste or creed and not on the manner proposed, which clearly involves discrimination. Your Excellency's refusal to intervene would be an inducement to the present ministry and to all its successors to bring forward the extreme measures which we have mentioned and the Punjab will continue to be a province in which 50 per cent of the population exercise an unadulterated sway over the remaining 50 per cent in the false name of democracy. Land Alienation Act which is a merely protective measure will continue to be the axis round which the politics of the Punjab turn.

(9) Apart from the exercise of Your Excellency's special responsibility, the measure even on its merits is one which should not receive Your Excellency's assent for the following reasons:—

(i) It is an expropriatory measure with discrimination in effect.

(ii) It has been given an atrociously retrospective effect and sets aside solemn agreements of long standing, in some cases of nearly 60 years, made without any fraud, oppression or circumvention of any law in existence at the time these contracts were entered into, being proved.

(iii) It makes absolutely no distinction between one case and another so far as the relative position of the mortgagors and mortgagees is concerned. It may be that in many cases the mortgagee is poorer than the mortgagor, it may be a widow, it may be an orphan, it may be a retired soldier, it may be a clerk, who out of his savings got a little land on mortgage in order to find a safe investment for his petty savings and to secure a sort of livelihood out of his investment.

(iv) If it was intended to help only the poor the benefit should have been restricted to the poor and a rich mortgagor should have been exempted from the benefit of the Bill. Amendments moved on this point were rejected by the Government.

(v) The Bill vide clause 7 was made much worse by an amendment which was moved on behalf of the Government and was accepted by majority of the House. The clause as it stood before the amendment was to the effect that before mortgagee is dispossessed the benefit received by him should equal or exceed the amount due under the mortgage. The amendment restricts this to the amount of the original mortgage money. This may mean that a mortgagee after 60 years might have got on investment of Rs. 100/- only Rs. 100/- as benefit and must part with the land without getting anything further. In other words he would be getting only Rs. 1|10|8 per cent per annum as interest which is unheard of. Even on Government securities the lowest rate of interest is 3 per cent which works out at a compound rate because it is paid every half year. Your Excellency must be aware that in the Relief of Indebtedness Act No. vii of 1934, it has been provided that interest at

9 per cent per annum with yearly rests on a secured debt will not be deemed to be usurious. A provision, therefore, should have been made in this Bill that the Collector should take into account the principal money originally advanced on the mortgage with compound interest at 9 per cent per annum and should deduct from that the benefit received by the mortgagee awarding the balance to the mortgagee before ordering redemption and dispossessing him.

(10) The main question which we are raising before Your Excellency is that the attempt of the Unionist Party to establish the rule of statutory agriculturists in the Punjab should be frustrated. The Party in making this attempt breaks its pledges on both sides—to the peasants by denying all relief to the mortgagors of 34,25,321 acres mortgaged after 1901, to the minorities by introducing a law which largely deprives them of land. The policy of conferring benefits on statutory agriculturists mainly at the cost of non-agriculturists must be stopped and Your Excellency alone can do it.

(11) Para 170 of the Report of the Franchise Committee, sections 111 (1), 112 (1) (2) of the Government of India Act 1935, section 52 (1) (b) with para 9 of the Instrument of Instructions to the Governor, section 107 and item 10 of the Concurrent Legislative List—Part I of List III and para 357 of the Report of Joint Parliamentary Committee on Indian Constitutional Reform are reproduced in the appendix for facility of reference. A resolution passed unanimously at a meeting of the Executive Committee of the Chamber of Commerce in which some prominent Europeans were also present, is also printed in the appendix.

We have the honour to remain,

Sir,

Your Excellency's most obedient servants.

**Members of the Khalsa
Nationalist Party.**

Uttam Singh Duggal (M.L.A.)
Santokh Singh (M.L.A.)
Jagjit Singh Bedi (Tikka, M.L.A.)

Other Sikh Gentlemen.

Gurbakhsh Singh (Raja Sir)
Sampuran Singh Chawla
Bhai Gurdit Singh (Provincial
Durbari)
Bhagwan Singh (Rai Sahib, Land-
lord and Rais Shujabad)
Hukam Singh (S.B.)
Partap Singh (President Municipal
Committee, Shujabad)
Sohan Singh ex-M.L.A. (Central)
Sant Singh Bedi
Chibar Singh Malik Ahloowalia
Jhanda Singh Bawa
Hukam Singh
Tehl Singh (Contractor)

Paral.

S.C. Dhanjibhoy (Nawabzada)

**Members of the National
Progressive Party.**

Narendra Nath, (Raja, M.L.A.)
Gokal Chand Narang (Kt. M.L.A.)
Binda Saran (R.B., M.L.A.)
Mukand Lal Puri, (R.B., M.L.A.)
Gopal Dass (R.B., M.L.A.)
Sita Ram (R.S., M.L.A.)
Girdhari Dass (M.L.A.)
Sohan Lal (R.S., M.L.A.)

Other Hindu Gentlemen.

Ram Saran Dass, Member Council
of State, R.B., C.I.E.
Bhai Parmanand, M.L.A. (Central)
Ram Rattan Seth (R.B.)
Balak Ram Pandaye
Raghubir Sawhney (M.C., Murree)
Dhan Raj Suri Pleader
Raja Bhagwant Singh, Rais of Rupri,
Kulu
L.M. Khosla

Christians.

Raghubir Singh Raja
E. Maya Dass
K.L. Rallia Ram

Europeans.

Allen Lee, Proprietor Bandrole
Orchard, Kulu
H. Donald, Dobi Katrain, Nagar
Estate, Kulu
Miss E. Donald, Dobi Estate, Kulu
T.E. Mae Cullagh, I.Sc. Katrain
T. Tyson, Katrain
Henry M. Benon, Major, Sunshine
Orchard Manali, Kulu
H.L. Benon, Captain, New Hope
Orchard, Manali, Kulu
H.A. Benon, Manali Orchards, Kulu

APPENDIX.

PARA 170 THE REPORT OF THE INDIAN FRANCHISE COMMITTEE.

*It is, however, a most serious defect of the Punjab Government's scheme that only about 25 per cent of the electorate will consist of members of non-agricultural tribes, whereas the non-agricultural tribes, from about half the population of the provinces. There was apparently some difficulty in compiling this information and we obtained it only a few days before we completed our report, when it was too late to discuss the matter further with the local Government. We feel convinced, however, that its significance is such as to necessitate further consideration of the whole scheme. The Punjab Land Alienation Act confers great advantages, social and economic, on the members of agricultural tribes, and it would not be right to give them in addition the political predominance which they would gain if they formed three-quarters of the electorate. We recognise that the non-agricultural tribes contain a considerable element of the depressed classes and landless labourers who would not obtain the vote under any Franchise system based on property and literacy qualifications, but even so it should be possible to do more than has hitherto been attempted to correct the disparity between the agricultural and the non-agricultural tribes. The most obvious remedy would seem to be an extension of the *haisiyat* or profession tax to all payers and not merely to those who pay Rs. 5. Any further extension would apparently require legislation. Other measures have also been suggested on which we can express no opinion at present. If it is found impossible to secure a substantial increase in the number of members of non-agricultural tribes in the electoral roll, it may be necessary to consider a reduction in the voting strength of the agricultural tribes. An increase in the land revenue qualification from Rs. 5 to Rs. 10 would result in a reduction in the number of landowners on the roll by half a million, without disturbing the communal proportions produced by the local Government's scheme. We should regret any such curtailment of the enfranchisement of the agricultural classes, but if no other means can be found for reducing the disparity between them and the non-agriculturists, the possibility will have to be faced. The whole question requires further examination by the local Government. It is not unlikely that the addition of the upper primary standard will be of assistance in increasing the proportion of the non-agricultural tribes while the measures we propose in chapter X in order to bring the depressed classes upto 10 per cent of their population strength will tend in the same direction.*

(Italics are ours.)

SECTION 111 (1) OF THE GOVERNMENT OF INDIA ACT.

111.—(1) Subject to the provisions of this chapter, a British subject domiciled in the United Kingdom shall be exempt from the operation of so much of any Federal or Provincial law as:—

(a) imposes any restriction on the right of entry into British India; or

(b) imposes by reference to place of birth, race, descent, language, religion, domicile, residence, or duration of residence, any disability, liability, restriction or condition in regard to travel, residence, the acquisition, holding or disposal of property, the holding of public office or the carrying on of any occupation, trade, business or profession:

.....

SECTION 112 (1) (2) OF THE GOVERNMENT OF INDIA ACT.

112.—(1) No Federal or Provincial law which imposes any liability to taxation shall be such as to discriminate against British subjects domiciled in the United Kingdom or Burma or companies incorporated, whether before or after the passing of this Act, by or under the laws of the United Kingdom or Burma, and any law passed or made in contravention of this section shall, to the extent of the contravention, be invalid.

(2) Without prejudice to the generality of the foregoing provisions, a law shall be deemed to be such as to discriminate against such persons or companies as aforesaid if it would result in any of them being liable to greater taxation than that to which they would be liable if domiciled in British India or incorporated by or under the laws of British India, as the case may be.

(3)

SECTION 52 (1) (b) OF THE GOVERNMENT OF INDIA ACT.

52.—(1) In the exercise of his functions the Governor shall have the following special responsibilities, that is to say:—

- (a)
- (b) the safeguarding of the legitimate interests of minorities;
- (c)

PARA 9 OF THE INSTRUMENT OF INSTRUCTIONS TO THE
GOVERNOR OF THE PUNJAB.

IX. Our Governor shall interpret his special responsibility for the safeguarding of the legitimate interests of minorities as requiring him to secure, in general, that those racial or religious communities for the members of which special representation is accorded in the Legislature, and those classes of the people committed to his charge who, whether on account of the smallness of their number or their primitive condition or their lack of educational or material advantages or from any other cause, cannot as yet fully rely for their welfare upon joint political action in the Legislature, shall not suffer, or have reasonable cause to fear, neglect or oppression. But he shall not regard as entitled to his protection any body of persons by reason only that they share a view on a particular question which has not found favour with the majority.

SECTION 107 OF THE GOVERNMENT OF INDIA ACT.

107.—(1) If any provision of a Provincial law is repugnant to any provision of a Federal law which the Federal Legislature is competent to enact or to any provision of an existing Indian law with respect to one of the matters enumerated in the Concurrent Legislative List, then, subject to the provisions of this section, the Federal law, whether passed before or after the Provincial law, or, as the case may be, the existing Indian law, shall prevail and the Provincial law shall, to the extent of the repugnancy, be void.

Item No. 10 of the Concurrent Legislative list. List No. 111.
Part 1.

10. Contracts, including partnership, agency, contracts of carriage, and other special forms of contract, but not including contracts relating to agricultural land.

PARA 357 OF THE REPORT OF THE JOINT PARLIAM-
 ENTARY COMMITTEE ON INDIAN CONSTITUTIONAL
 REFORM.

But it will still be the duty of the Governor-General and of the Governors to exercise their discretion in giving or withholding their assent to Bills. And we think that the Instrument of Instructions should make it plain, as we have already indicated in connection with the Governor-General's special responsibility in relation to tariffs, that it is the duty of the Governor-General and of the Governors, *in exercising their discretion in the matter of assent to Bills, not to feel themselves bound by the terms of the statutory prohibitions in relation to discrimination, but to withhold their assent from any measure which, though not in form discriminatory, would in their judgment have a discriminatory effect.* We have made, we hope, sufficiently plain the scope and the nature of the discrimination which we regard it as necessary to prohibit, and we have expressed our belief that statutory prohibitions should be capable of being so framed as generally to secure what we have in view. We are conscious, however, of the difficulty of framing completely water-tight prohibitions and of the scope which ingenuity might find for complying with the letter of the law in a matter of this kind while violating its spirit. It is, in our view, an essential concomitant of the stage of responsible Government which our proposals are designed to secure that the discretion of the Governor-General and of the Governors in the granting or withholding of assent to all Bills of their Legislature should be free and unfettered; and, in this difficult matter of discrimination in particular, we should not regard this condition as fulfilled if the Governor-General and Governors regarded the exercise of their discretion as restricted by the terms of the statutory prohibitions. We further recommend that the Instrument of Instructions of the Governor-General and the Governor should require him, *if in any case he feels doubt whether a particular Bill does or does not offend against the intentions of the Constitution Act in the matter of discrimination, to reserve the Bill for the signification of His Majesty's pleasure.* We need hardly add that the effect of our recommendations for the statutory prohibition of certain specified forms of discrimination would lay open to challenge in the Courts as being *ultra vires* any legislative enactment which is inconsistent with these prohibitions, even if the Governor-General or the Governor has assented to it.

(Italics are ours.)

A resolution passed unanimously at a meeting of the Executive Committee of the Chamber of Commerce at which, amongst others, the following gentlemen were present:—

1. Sardar Sampuran Singh Chawla.
2. The Hon'ble Rai Bahadur Ram Saran Das, C.I.E., M.C.S.
3. Mr. D. H. Peel-Yates (Manager Bird and Co.)
4. Mr. R. C. Osborn (Manager Lloyds Bank Ltd.)
5. Mr. S. E. L. West O.B.E., V.D. (of N.W.R.).
6. Rai Bahadur Binda Saran, M.L.A.
7. D. B. Krishen Kishore.
8. Rai Bahadur Balak Ram Pandaye.
9. Rai Bahadur Ram Rattan Seth.

“Whilst sympathising with measures for the relief of peasantry, we strongly protest against such measures being given retrospective effect, setting aside all contracts, which were valid under the law then and now existing in respect of property, specially when relief is really given on caste lines so as to benefit agriculturists at the cost of non-agriculturists, thought ostensibly it is said to be universal in application. We do not understand why no relief is given to peasants whose areas were mortgaged after 1901, which we understand amounts to about 34 lakhs of acres. The Restitution of Mortgaged Lands Law as passed, affects more adversely the non-agriculturists and we are of the opinion that the principle embodied in section 112 (2) of the Government of India Act should be applied in order to protect the interests of non-agriculturists against aggression by agriculturists. We are opposed to all measures creating invidious discrimination.

Resolved for the above reasons that the Governor should be asked to refuse his assent to laws giving retrospective effect to measures in respect of property.”

श्री.

आटपाडी, ता. २४-१२-३६.

रा.रा. ना. श्री. ग. बळे,

मु. पुणे बांस.

१ 4

कृ. सा. नमस्कार वि. वि.

आपले ता. २३-१२-३६ चे पत्र पोचले. ऋणनिमोचन कायदावरील उपसूचना आपण कळविल्या त्या समजल्या. त्या-बद्दल आभारी आहे. आपले सूचनांचा बोगब निवार होईल.

ऋणनिमोचन कायदाचा मसुदा कमिटीने दुरुस्त केल्याप्रमाणे सोबत पाठविला आहे. तो पाहून आपल्या ज्या काही सूचना असतील त्या शक्य तितक्या लवकर कृपेने कळवाव्यात कळावे लोभ असताना हे विनंती,

S. D. D. D. D.

दिवाण सं. अंध.

X9(JJ:6:(Z23154)

५६

चा
औंध संस्थानच्या ऋणविमोचनासंबंधी
कायद्याचा मसुदा.

ऋणविमोचन कमिटीने तयार केलेला.

मजरा व. वि. शिपतः शेतकरी का ऋणविमोचन कायदा १९३१चा ८०वा नये

ज्याअर्थी औंध संस्थानातील प्रजेचें ऋणविमोचन करणें अगत्याचें आहे, व ज्याअर्थी रोप्यमहोत्सवाचे वेळीं सरकार श्रीमंत राजेसाहेब यांनी या कार्यासाठीं दरसाल रुपये २०,००० खर्च करण्याचें जाहीर केलेलें आहे, त्याअर्थी खालीलप्रमाणें कायदा करण्यांत येत आहे.

भाग १ ला.

प्राथमिक.

राज्या

१ सरनामा :- या कायद्यास औंध संस्थानातील ऋणविमोचनाचा कायदा असें म्हणावें.

२ व्याप्ति :- (अ) हा कायदा ज्या गांवास ज्या तारखेपासून लागू करणेसंबंधी सरकारचा जाहिरनामा सरकारच्या गॅझेटमध्ये प्रसिद्ध होईल, त्या तारखेपासून त्या ऋणकोस व त्या गांवातील कोणत्याही ऋणकोशीं देवघेवीचा व्यवहार करणाऱ्या त्या गावांत अगर त्या गांवाबाहेर राहणाऱ्या घनकोस लागू होईल.

(ब) गांवातील सर्व ऋणकोचे या कायद्याखाली पूर्ण ऋणविमोचन होऊन त्यासंबंधी संस्थानचें गॅझेटमध्ये प्रसिद्धी करण्यांत येईल व त्यानंतरच या कायद्याची त्या गांवातील अंमलवारी बंद होईल.

(क) कोणत्याही गांवास हा कायदा लागू झाल्यानंतर परगांवांतून त्या गांवात राहण्यास जाणाऱ्या कोणाही व्यक्तीला हा कायदा लागू करणें अगर न करणें हे सर्वस्वी दरबारच्या मर्जीवर अवलंबून राहिल व दरबाराचा याबाबत ठराव झाल्यानंतर तो संस्थानचे गॅझेटमध्ये प्रसिद्ध करण्यांत येईल.

(द) ज्या गांवास हा कायदा लागू करण्यांत येईल त्या गांवातील कोणाही ऋणकोस त्याचें नांव संस्थानचे गॅझेटमध्ये प्रसिद्ध करून त्याला सरकारचे मर्जीप्रमाणें या कायद्याच्या अंमलवारीतून वगळतां येईल, तसेंच ज्या ऋणकोचे कर्त कधीहि फिटणें शक्य नाही त्याचें नांव संस्थानचें गॅझेटमध्ये प्रसिद्ध करून त्याला या कायद्याच्या अंमलवारीतून वगळतां येईल.

३ विरोधी कायद्याची अंमलवारी तद्दुकब. :- या कायद्यास विरोधी असे जे कायदे अगर कायदे हल्ली संस्थानांत लागू असतील ते हा कायदा लागू असेपर्यंत तेवढ्यापुरते रद्द समजून त्यांचा अंमल हा कायदा लागू असेतोपर्यंत या कायद्याला विरोध येईल अशा रीतीनें करण्यांत येणार नाही.

४ व्याख्या :-

१ शेतकरी :- औंध संस्थानचे हद्दीत राहून स्वतः अगर तोकरामार्फत शेत कसून शेतीवर सर्वथंय अगर मुख्यतः उदरनिर्वाह करणारा रयतावा अगर इनामी जमीन धारण करणारा खातेदार अगर पोट हिस्सेदार यास शेतकरी म्हणावें. त्याजवर अवलंबून असलेली व त्याजवरवरच राहात असलेली एकत्र कुटुंबातील पोट हिस्सेदार माणसे यांचाही शेतकरी शब्दांत समावेश होतो. ज्या जमीनधारण करणारानें आपल्या जमीनी लागणीनें अगर खडानें दुसऱ्या शेतकऱ्यांस शेती करणेसाठीं दिल्या आहेत, त्यांचाहि शेतकरी या शब्दांत समावेश होतो.

२ पैसा :- यांत शेतीतील अगर वनशेतीच्या अंदांतीनें उत्पन्न अगर पैदास यांचा समावेश होईल.

३ उर्मी पिके :- यांत जमीनीस लागून असलेलीं सर्व प्रकारचीं पिके, तसेंच झाडे व वनस्पती, पाने, फळे व रस यांचा समावेश होतो.

४ तद्दजोड कमिटी :- गांवातील ऋणकोचे कर्जाची रक्कम निश्चित करून तिची फेड कशी करावी तें ठरविण्यासाठीं सरकारांतून नेमलेली कमिटी.

५ ऋणविमोचन :- बँक, सहकारी संस्था अगर कोणत्याही कायद्याखाली नोंदलेल्या संस्था यांखेरीज इतर सावकारांचे कर्जांतून ऋणकोची मुक्तता करणें.

५-६ ऋण : - बँक, सहकारी संस्था अगर कोणत्याही कायद्याखाली नोंदलेल्या संस्था यांखेरीज इतर सर्व प्रकारच्या धनकोचे देणे.

५-७ बँक : - औष संस्थान मध्यवर्ती बँक लिमिटेड.

५-८ सासायटी : - कोऑपरेटिव्ह सोसायटीचे कायद्याखाली नोंदलेली औष संस्थानांतील सोसायटी

५-९ तिजोरी रोखे : - औष संस्थानचे तिजोरी रोखे.

५-१० तपासणी-कमिटी : - एखाद्या ऋणकोने सावकारास किती देणे आहे, हे तडजोडकमिटीने ठरविले असता त्या ठरावाचा फेरविचार करण्याकरिता सरकारने नेमलेली ना. सरन्यायाधीश व एक वरिष्ठ अधिकारी यांनी कमिटी.

भाग २ रा.

ऋणविमोचन.

५ तडजोड कमिटीचा अधिकार.-

कोणत्याही ऋणकोने सावकारांचे नक्की देणे किती आहे, ते चौकशी करून अगर तडजोडीने ठरविण्याचा तसेच ते देणे कसे व केव्हां फेडावयाचे ते ठरविण्याचा अधिकार तडजोड कमिटीस आहे.

५(अ) तडजोड कमिटीस दिवाणी कोर्टाचे अधिकार. -

ऋणको अगर धनको यांना समन्स करण्याचा, त्यांना तडजोड कमिटीपुढे हजर करून घेण्याचा, कर्जासंबंधी पुढेवा घेऊन अगर अन्य मार्गांनी चौकशी करण्याचा, कागदपत्र व हिशेब मागून घेण्याचा, तडजोड करण्याचा व अखेर निकाल देण्याचा, तसेच सर्वसाधारणपणे दिवाणी कोर्टास असलेले सर्व अधिकार तडजोड कमिटीस आहेत.

तडजोड कमिटीचा हुकूम. -

५ तडजोड कमिटीने केलेला ठराव दिवाणी कोर्टाच्या हुकुमनाम्याप्रमाणे समजण्यांत येईल. मात्र सदर हुकुमाची अम्मलवारी या कायद्यांत निर्दिष्ट केलेल्या मार्गांचे फक्त करता येईल.

६ तडजोड कमिटी धनकोने ऋणकोकडून एकंदर जी वसूल करावयाची रक्कम ठरविल, त्या रकमेवर व्याज देणे झाल्यास दरसाल दरशेकडा ~~उत्पत्तीस जसता व्याज पुढे देता येणार नाही.~~

७ तडजोड कमिटीस खालील व्यवहारांचे बाबतीत कोणताही ठराव करता येणार नाही :-

(अ) ज्या तारखेस हा कायदा लागू करण्यांत येईल, त्या तारखेस मुदतीतून गेलेली देणी.

(ब) दिवाणी कोर्टाने ज्या व्यवहारांचे बाबतीत हुकूमनामा केलेला आहे ते सर्व व्यवहार.

मात्र (ब) मधील देण्याचे बाबतीत ते देणे कशा रीतीने फेडावे ते तडजोड कमिटीस ठरविता येईल. व दिवाणी कोर्टाने देणे फेडण्याच्या प्रकाराबद्दल जर काही हुकूम केलेला असेल तर त्या हुकुमांतही एकंदर देणे रक्कम जी कोर्टाने ठरविली असेल, त्या रकमेत फरक न करता देणे फेडण्याच्या प्रकाराबद्दल या कायद्यांत निर्दिष्ट केलेल्या योजनेला अनुसरून जर ते फरक करता येतील. ~~त्या रकमेत फरक न करता देणे फेडण्याच्या प्रकाराबद्दल या कायद्यांत निर्दिष्ट केलेल्या योजनेला अनुसरून जर ते फरक करता येतील.~~

१० (अ) ज्या गांवाला हा कायदा लागू करण्यांत येईल त्या गांवात राहणाऱ्या (अगर त्या गांवातील जमीन धारण करणाऱ्या) कोणत्याही ऋणकोविरुद्ध दिवाणी कोर्टात प्रॉमिसरी नोट, तारण अगर कब्जे-गहाण, मुदत खरेदी या व्यवहारांबद्दल अगर अन्य प्रकारच्या हातावरील अगर अन्य प्रकारच्या कर्जाबद्दल चालू असलेले दावे चालविण्याचा अगर सदर दाव्यांत कोणताही हुकूमनामा करण्याचा ज्या तारखेस हा कायदा सदर गांवास, लागू करण्यांत येईल त्या तारखेपासून व हा कायदा सदर गांवाला अमलांत असे तोपर्यंत दिवाणी कोर्टास अधिकार राहणार नाही.

(ब) हा कायदा लागू होण्यापूर्वी दिवाणी कोर्टाने ज्या गांवाला हा कायदा लागू करण्यांत येईल त्या गांवात राहणाऱ्या ऋणकोविरुद्ध जे कर्जासंबंधी हुकूमनामे केले असतील त्याची अम्मलबजावणी हा कायदा लागू झाल्यानंतर दिवाणी कोर्टास करण्याचा अधिकार नसून त्या हुकूमनाम्याची फेड कशी करावी ते तडजोडकमिटीनेच ठरवावयाचे आहे

(क) अशा तऱ्हेच्या सर्व दाव्यांतील कागदपत्र दिवाणी कोर्टाने तडजोड कमिटीकडे जाहीरनामा प्रसिद्ध झाल्यापासून एक महिन्याचे आत पाठविले पाहिजेत.

(घ) - ५५४ कोर्टाचे अर्ज उद्दिष्टातून होऊन किट्टी अर्जावर शाले अर्जेत तडजोड करून त्या रकमांची जमीन सावकारांचे दाव्यांत जमीनीचे ५५४ करून त्या रकमांचे मातीत जास्त २० च्या रकमांचे तडजोड कमिटीस आहे. ५५४ रकमेवर व्याज देणे सावकार व दिवाणी कोर्टाकडून लिहून घेण्यात येईल.

(ड) जे दावे दिवाणी कोर्टांत हा कायदा एखाद्या गांवास लागू होण्यापूर्वी दाखल झाले असतील, त्या दाव्यांतील कागदपत्र वरील पोट कलम (क) प्रमाणे तडजोडकमिटीकडे पाठविणेचे वेळीं त्या दाव्यांतील फिर्यादीसोबत दिलेल्या दाव्याचे रकमेवरील स्टांपाची रक्कम कलेक्टरने वादीस परत देण्याबद्दल कोर्टफीअॅक्टाप्रमाणे सर्टिफिकेट दिवाणी कोर्टास योग्य वाटल्यास देतां येईल.

११ तडजोड कमिटी आपसात तडजोडीने अगर स्वतः चौकशी करून जो निकाल देईल तो अखेरचा समजणेंत येईल व त्यावर अर्पाल अगर तपासणी अर्ज कोणत्याही कोर्टाकडे चालणार नाही.

१२ तडजोड कमिटीने दिलेल्या कोणत्याही ठरावाबद्दल दाद देण्याचा, अगर त्यांत फेरफार करण्याचा अगर ज्या देण्याबद्दल तडजोड कमिटीने ठराव केलेला असेल त्या देण्याबद्दल कांहीही चौकशी करण्याचा अगर हुकूमनामा करण्याचा अधिकार दिवाणी कोर्टास नाही.

१३ तडजोड कमिटीने एखाद्या ऋणकोने घनकोस एकंदर किती रक्कम द्यावी हें ठरविलें असता तिच्या एकंदर देणें रकमेच्या ठरावावरच फक्त तपासणी ^{अर्ज} एक तपासणी अर्ज घनको अगर रिणको यांपैकी कोणासही करितां येईल व तपासणी ^{अर्ज} ~~कमिटीकडे~~ ~~सिद्धिल~~ ~~प्रोग्रामवर~~ ~~कोठेच्या~~ ~~दुसऱ्या~~ ~~वेळीच्या~~ ~~वेळी~~, ~~२५ (अ) व २५ (ब) मधील~~ ~~कारणांकरितां~~ ~~काय~~ ~~सदर~~ ठराव फिरवितां अगर त्यांत फरक करितां, अगर पुन्हां तडजोड कमिटीकडे फेरविचाराकरितां पाठवितां येईल. ~~का~~ ~~कारणांकरितां~~ ~~नुसत्या~~ ~~कोणत्याहि~~ ~~कमिटीकरितां~~ ~~सदर~~ ~~ठराव~~ ~~फिरविण्याचा~~ ~~तपासणी~~ ~~कमिटीला~~ ~~अधिकार~~ ~~नाहीं.~~

१४ तडजोड कमिटीमुळे ~~अनस्तपसणीकमिटीमुळे~~ घनको अगर ऋणको यांना वकिलमार्फत हजर राहतां येणार नाही.

१५ तडजोड कमिटीने अगर तपासणी ~~कमिटीने~~ केलेला कोणताहि हुकूम योग्य कारणाशिवाय घनको अगर ऋणको यांनीं अमान्य केल्यास हुकूम अमान्य करणारांस समी चौकशी करून जास्तीत जास्त ५० रुपये पर्यंत दंड करण्याचा ~~मा~~ ~~कमिटीला~~ ~~अधिकार~~ आहे; व असा दंडाचा हुकूम जर तडजोड कमिटीने केलेला असेल तर त्यावर ^{अर्ज} ~~कमिटीकडे~~ अर्ज करतां येईल.

१६ तडजोड कमिटीकडून सावकाराचे देण्याबंदी जो निर्णय देण्यांत येईल त्यास अनुसरून सावकाराचे देण्याची फेड करण्याची सर्व जबाबदारी सरकारवर आहे.

१७ तडजोड कमिटीतून ठरविण्यांत आलेल्या हुकूमप्रमाणे घनकोस सरकारी तिजोरीतून रक्कम देण्याबद्दल जर त्या मुदतीचे व हप्त्याचे रकमेचे संस्थानच्या तिजोरीचे रोखे तडजोड कमिटीच्या ठरावानंतर सरकारकडून देण्यांत येतील. व सदर रोख्याची रक्कम त्या त्या वर्षाचे रोख्यांत ठरलेल्या तारखेस तालुक्यांच्या तिजोरीतून घनकोस देण्यांत येईल. परंतु जर नेमले तारखेस घनकोने तिजोरीतून रक्कम नेली नाही तर त्या रकमेवरील सदर रोख्यांत नमूद असलेले दरानें त्या तारखेपासून तो घनको रक्कम नेईपर्यंतचे व्याज त्यास मिळणार नाही. मात्र घनकोकडून तशी लेखी मागणी आल्यास सदरहु रक्कम पोस्टाचे मनीआर्डरीने घनकोच्या खर्चानें पाठविण्यास हरकत नाही.

१८ सरकारच्या या योजनेस अनुसरून दिलेल्या कर्जरोख्यास इंडियन सिक्युरिटीज अॅक्ट लागू करण्यांत आला असून सरकारने केलेल्या नियमाप्रमाणे सदर कर्जरोखे ट्रॅन्स्फर करतां येतील.

१९ ज्या ऋणकोचे देण्याबद्दल तडजोड कमिटीने ठराव करून तें देणें निश्चित केलेलें आहे, त्या ऋणकोच्या सर्व स्थावर व अंगम मिळकतीवर जमीन महसूलानंतर सरकारचा अग्रेसरत्वाचा हक्क त्या रकमेपुरता राहिल. व तडजोडकमिटीने जी रक्कम दरसाल देण्याबद्दल ठराव केला असेल, ती सर्व रक्कम जमीन महसूल म्हणून ऋणकोकडून वसूल करण्याचा सरकारला हक्क आहे. ^{२५ (अ) व २५ (ब) मधील} ~~कारणांकरितां~~ ~~जास्त~~ ~~२०~~ ~~पर्यंत~~ ~~दंड~~ ~~२५~~ ~~२५~~ ~~२५~~

२० हा कायदा अमलांत येण्याचे पूर्वी औष संस्थानचे स्टेट बँकेने जर कोणा ऋणकोस यापूर्वी कर्जाक रकमा दिलेल्या असतील, तर त्या रकमांची फेड वरील कलम १७ प्रमाणे जर सरकारनी केली तर ती रक्कम ऋणकोकडून वसूल करण्याचा सरकारला कलम १९ प्रमाणे अधिकार आहे.

२१ औष स्टेट बँकेच्या येण्याचे बाबतीत तडजोडकमिटीला फक्त सदर रकमेच्या फेडीचे हप्तें ठरवित येतील. या हप्त्याचे रकमेवर व्याज दरसाल दरशेकडा ६ रुपयांपेक्षा जास्त दरानें आकारलें जाणार नाही.

भाग ३ रा.

नवीं कर्जे काढणें व पैशाचे देवघेवीसंबंधी व्यवहार.

२२ ज्या गांवास हा कायदा लागू असेल त्या गांवांतील कोणाहि इसमास कांहीहि रक्कम कर्जाक द्यावयाची असल्यास ती फक्त त्याला सोसायटीकडून कर्जाक देतां येईल. या खेरीज इतर कोणतीही कर्जाक

६२५१ ले ८५८
१ मंजुरी देण्यात

रक्कम घेण्याचा व्यवहार रद्द व गैरकायदा समजण्यांत येईल.

२३ हा कायदा ज्या गांवास लागू असेल, त्या गांवांतील पैशाचे देवघेवीचा सर्व व्यवहार सरकारने मंजुरीने करण्यांत येईल. तसेंच सोसायटीच्या सर्व व्यवहारांवर सरकारची देखरेख राहिल. व ज्या ऋणकोच्या ऋणासंबंधी तदजोड कमिटी ठराव करील, त्या ऋणकोचे उत्पन्न व जमाखर्च यासंबंधी सरकारमाफत सर्व हिशेब ठेवण्यांत येतील व असे हिशेब ठेवण्यासाठी जरूर ती माहिती सरकारने या कलमाखाली केलेल्या नियमाप्रमाणे योग्य अम्मलदारास सर्व संबंधी माणसांनी पुरविली पाहिजे.

२४ हा कायदा ज्या गांवास लागू असेल, त्या गांवांतील सरकारी जमीनीच्या खंडाबद्दल त्या जमीनीत ज्या सालच्या खंडाची मागणी असेल त्या साली उत्पन्न झालेल्या ऐन पिकाचे किमतीच्या निम्हापेक्षां जास्त रक्कम लॅंड रेव्हिन्यू कोडप्रमाणे मुलकी अधिकाऱ्यांकडून वसूल करून दिली जाणार नाही तसेंच जमीनीत उत्पन्न झालेल्या ऐन पिकांच्या निम्हापेक्षां अधिक गल्लाहि सदर कलमाप्रमाणे वसूल करून दिला जाणार नाही. व या कलमाचा अम्मल करितांना वरिष्ठ धारणकरणार व कनिष्ठ धारणकरणार यांचेमधील कसल्याहि प्रकारचा करार लक्षांत घेण्यांत येणार नाही.

२५ या कायद्याच्या अम्मलवारीकरीता, तसेंच या कायद्याचा अगर या कायद्याखाली केलेल्या नियमांच्या मंगाबद्दल शासन ठरविण्याकरिता सरकारला या कायद्याशी विसंगत नाहीत असे नियम करण्याचा अधिकार दिलेला आहे. हे नियम गॅझेटमध्ये प्रसिद्ध झाल्याबरोबर अमलांत येतील. मात्र हे नियम प्रसिद्ध झाल्यानंतर भरणाऱ्या पहिल्या प्रातिनिधिक सभेच्या अधिवेशनांत ते सभेच्या टेबलावर ठेवण्यांत येतील व सभेत बहुमताने या नियमांची ज्याप्रमाणे दुहस्ती करण्याचे ठरेल, त्याप्रमाणे जरूर ते फेरफार करणेत येतील.

२६ ज्या गांवास हा कायदा लागू करण्यांत येईल, त्या गांवांतील सरकारी जमीनीच्या खंडाबद्दल त्या जमीनीत ज्या सालच्या खंडाची मागणी असेल त्या साली उत्पन्न झालेल्या ऐन पिकाचे किमतीच्या निम्हापेक्षां जास्त रक्कम लॅंड रेव्हिन्यू कोडप्रमाणे मुलकी अधिकाऱ्यांकडून वसूल करून दिली जाणार नाही तसेंच जमीनीत उत्पन्न झालेल्या ऐन पिकांच्या निम्हापेक्षां अधिक गल्लाहि सदर कलमाप्रमाणे वसूल करून दिला जाणार नाही. व या कलमाचा अम्मल करितांना वरिष्ठ धारणकरणार व कनिष्ठ धारणकरणार यांचेमधील कसल्याहि प्रकारचा करार लक्षांत घेण्यांत येणार नाही.

२७ तदजोड कमिटीपुढे अगर तपासणी नमितीपुढे दिलेल्या कोणत्याहि फिर्मादीला अगर अर्जाला अ कोर्टाची माफी आहे.

२८ औष संस्थान मध्यवर्ती बँक लि. ज्या रकमा सोसायटीच्यांना कर्जाक देईल, त्या सर्व रकमा सरकारच्या हमीवरच देण्यांत येतील.

१४ कायदा १९२५ अम ८६

औंध संस्थानच्या ऋणविमोचनासंबंधी

कायद्याखालील नियमांचा मसुदा.

[ऋणविमोचन कमिटीने तयार केलेला.]

जाहीरनामा (कलम २ [अ] प्रमाणें.)

ज्या अर्थी औंध संस्थानच्या सन १९३५ इ. च्या कायद्याच्या कलम २ (अ) प्रमाणें ऋणविमोचनाचा कायदा कोणत्या गांवास लागू करावयाचा तें सरकारने ठरविणेंचे असून ज्या अर्थी आटपाडी तालुक्यांतील मोजे गळवेवाडी व राजेवाडी या गांवास सदर कायदा लागू करण्याबद्दल ~~प्रतिनिधिक मोजेची संघटी मिळालेले~~ आहे त्याअर्थी सरकार श्रीमंत राजेसाहेब संस्थान औंध यांचे हुकुमावरून असें जाहीर करण्यांत येतें कीं :—

मोजे गळवेवाडी व मोजे राजेवाडी तालुके आटपाडी या गांवांतील ऋणकोच्या ऋणविमोचनाच्या योजनेस अनुसरून ऋणविमोचनाचा कायदा व त्या कायद्याखालीं यापूर्वी केलेले व यापुढें करण्यांत येणारे सर्व नियम सदर गांवांत राहणाऱ्या ^{सर्व} शेतकरी व बिनशेतकरी ऋणकोस, तसेंच घरांचे ^{मालकांस, व जमीनोचे धारक्यांस} व सदर गांवांतील लोकांशी सावकारीचा व्यवहार करणाऱ्या धनकोस लागू करण्यांत आलेले आहेत, व या कायद्याचा अगर या कायद्याखालीं केलेल्या नियमांचा भंग करणारा कोणीहि इसम सदर कायद्यांत अगर नियमांत सांगितल्याप्रमाणें शासनास पात्र होईल.

दिवाण, संस्थान औंध.

नियम.

कलम २ प्रमाणें वगळण्याबद्दल नियम.

— * —

१ जर कोणा ऋणकोस अगर धनकोस कायद्याच्या अंमलवारीतून वगळण्यांत यावें असें वाटत असेल तर कायदा लागू झाल्याचा जाहीरनामा प्रसिद्ध झाल्याभासून आठ दिवसांचें आंत त्यानें तडजोड कमिटीचे अध्यक्ष यांचेकडे अर्ज केला पाहिजे.

२ ज्या कारणांकरितां स्वतःस वगळावें असें अर्जदाराचें मत असेल तीं सर्व कारणें त्यानें अर्जांत नमूद केलीं पाहिजेत. तसेंच त्या कारणांच्या पुष्ट्यर्थ जरूर तो पुरावा हजर केला पाहिजे.

३ अर्जदाराचा अर्ज आल्यानंतर त्या अर्जाचा विचार तडजोड कमिटी करील व अर्जदारांस आरलें म्हणणें त्यांचे पुढें मांडण्याची संधि देण्यांत येईल.

४ सदर कमिटीने अर्जदाराचें म्हणणें ऐकून घेऊन, व जरूर वाटल्यास गांवांतील सर्व लोकांस त्यांचेहि कांहीं म्हणणें असल्यास तें पुढें मांडण्याची संधि देऊन, अर्जदार यास ऋणविमोचनाच्या योजनेतून वगळण्याबद्दल ठराव करावा.

मात्र सदर ठरावांत अर्जदारास ज्या कारणांकरितां वगळण्यांत आलें असेल ती कारणें नमूद केलीं पाहिजेत.

५ सदर कमिटीचा निकाल कायम समजण्यांत येईल व तो निकाल संस्थानचें गॅझेटमध्ये सरकार मंजुरीनंतर प्रसिद्ध करण्यांत येईल.

६ कमिटीच्या सभासदांत मतभेद झाल्यास दोनहि सभासदांनी आपआपल्या शिफारसीचे ठराव नामदार सरन्यायाधीश यांकडे कायम निकालाकरितां पाठवावेत व ना. सरन्यायाधीश यांचा निकाल हा दरवारचा निकाल म्हणून सरकार मंजुरीनें गॅझेटमध्ये प्रसिद्ध करण्यांत यावा.

७ कोणाहि अर्जदारास वगळण्याच्या अगर न वगळण्याच्या तडजोड कमिटीच्या ठरावावर अगर कमिटींत मतभेद झाल्यास ना. सरन्यायाधीश यांचे ठरावावर कोणाकडेहि अपोलें अगर तपासणी अर्ज चालणार नाही.

८ कोणीहि अजंदार तडजोड कमिटीने हजर राहण्याचा हकूम केल्यास जर हजर झाला नाही तर त्याच्या गैरहजरीत त्याच्या अर्जाचा निकाल करणेस हरकत नाही; तसेच ना. सरन्यायाधीश यांचेकडे अखेर निकालासाठी काम गेलें असतां त्यांना कमिटीच्या सभासदांच्या शिफारशीवरूनच निकाल करितां येईल, त्यांचेपुढे अजंदार यास आपलें म्हणणें मांडण्याची संधि जर सदर अंमलदारास तसें करणें इष्ट वाटलें तरच देण्यांत येईल.

९ कमिटीचे काम संक्षिप्त पद्धतीने चालण्याचें असून, अर्जाच्या सुनावणीची योग्य पद्धत कमिटीने ठरवावी.

कलम ४ प्रमाणें जाहीरनामा.

ज्याअर्थी ऑथ संस्थानचे १९५७ च्या कायद्याच्या ४ थ्या कलमाप्रमाणें ऋणविमोचनाच्या योजनेसाठी तडजोड कमिटी व तपासणी कमिटी सरकारने नेमण्याचे आहेत त्याअर्थी खालीलप्रमाणें नेमणुका करण्यांत येत आहेत.

तडजोड कमिटी.

- १ ~~ना. सा. व. सरन्यायाधीश~~ रा. सा. न्यायाधीश, आटपाडी.
- २ रा. सा. मामलेदार ता. आटपाडी.
- ३ ~~ना. सा. व. सरन्यायाधीश~~ सदर तडजोड कमिटी आटपाडी तालुक्यातील गांवापुरतीच असून दुसऱ्या कोणत्याही तालुक्यातील गांवाकरिता ना. सा. व. सरन्यायाधीश व त्या त्या तालुक्याचे मामलेदार यांच्या संमत्याने न्यायाधीश यांची कमिटी नेमण्यांत येईल.

तपासणी कमिटी.

- १ नामदार रा. व. सरन्यायाधीश.

~~ना. सा. व. सरन्यायाधीश~~

२ तपासणी कमिटी संस्थानातील सर्व गांवाकरिता नेमलेली आहेत.

तडजोड कमिटीचे नियम.

१ कोणत्याही गांवाला हा कायदा लागू झाल्यानंतर एक महिन्याचे आंत अंमलदारानी गांवातील सर्व ऋणको व घनको यांची यादी, तसेच त्यांची देणे व घेणे रक्कम याबद्दल कमिटीकडे रिपोर्ट करावा.

२ हा रिपोर्ट तसेच ही माहिती खाजगी व गुप्त समजण्यांत येईल व त्याच्या नकला कोणासही देण्यांत येणार नाहीत.

३ तडजोड कमिटीने करावयाची चौकशी गांवांतच करावयास पाहिजे.

४ सिव्हिल प्रो. कोडमध्ये आरबिट्रेटरीनी जी कार्य करण्याची पद्धति दिलेली आहे त्या पद्धतीनेच शक्यतोवर तडजोड कमिटीने काम करावें.

५ ऋणको व घनको यांना आपलें म्हणणें कमिटीपुढे मांडण्याची योग्य संधि देऊनच मग तडजोड कमिटीने योग्य कारणें देऊन आपला निकाल जाहीर करावा.

६ तडजोड कमिटीने आपल्यापुढे येणाऱ्या कामांचे रजिष्टर ठेवले पाहिजे व त्या रजिष्टर-रांत घनको व ऋणको यांचे म्हणणें, त्यांचा पुरावा व कमिटीचा निकाल नमूद केला पाहिजे. साधारणपणें रजिष्टर खालील पद्धतीचे असावें.

१ अनुक्रम नंबर.

२ घनकोचे नांव व पत्ता.

- ३ ऋणकोचे नांव व पत्ता **मामलेसारांच्या**
- ४ स्वामिक-जमल्यास एकंदर देण्याबद्दल रिपोर्टाचा सारांश.
- ५ घनकोच्या म्हणण्याचा सारांश.
- ६ ऋणकोच्या म्हणण्याचा सारांश.
- ७ घनकोच्या पुराव्याचा सारांश.
- ८ ऋणकोच्या पुराव्याचा सारांश.
- ९ कमिटीचा निकाल व कारणे.
- १० तपासणी कमिटीचा निकाल व कारणे.
- ११ पैसे ऋणकोकडून वसूल करण्याची योजना.
- १२ पैसे वसूल करण्याच्या योजनेवरील वार्षिक रिपोर्ट.
- १३ इतर.

७ तडजोड कमिटीचे काम संक्षिप्त पद्धतीने चालविण्याचे असून कमिटीपुढे आलेला पुरावा सविस्तर लिहून घेता त्याचा सारांश वरील रजिष्टरांत लिहून आपला ठरावहि रजिष्टरांतच नमूद करावा.

८ घनको व ऋणको यांनीच तडजोड केल्यास कलम ९ मध्ये तडजोडीच्या अटी लिहून त्याखाली दोघांची सही घेऊन तडजोड कमिटीने आपली संमति नमूद करावी.

९ **घनको** अगर **घनको** हजर न झाल्यास कलम ५ अगर ६ मध्ये ही गोष्ट नमूद करून त्यांना हजर करण्याबद्दल कमिटीने काय तजवीज केली तें नमूद करावे.

१० दिवाणी कोर्टाकडून आलेल्या दाव्याचे बाबतीत कलम १३ मध्ये दि. मु. नंबर लिहावा व काम कमिटीकडे दाखल झाल्याची तारीख लिहावी.

११ तडजोड कमिटीने ठराव केल्यानंतर तिने घनकोस किती रकमेचे व कोणत्या सालाचे कर्जरोखे बाबत्याचे त्याचा रिपोर्ट सरकारकडे लागलीच केला पाहिजे.

~~१२ सोसायटीच्या ऋणकोकडून जी घेणे दखल घेऊन त्याचा निकालहि तडजोड कमिटीने करून त्याची रजिष्टरांत नोंद घेऊन घे.~~

कलम १८ प्रमाणे नियम.

हे नियम Government securities बद्दल ब्रिटिश सरकारने केलेल्या नियमप्रमाणे असतील.

कलम २४ प्रमाणे केलेले नियम.

१ गांवातील कोणाहि इसमास कर्ज काढावयाचे असल्यास त्याने कर्ज काढण्यापूर्वी ~~समकक्ष~~ **१८५** यांजकडे अर्ज करून त्यांची मंजूरी मिळविली पाहिजे.

२ सदर अर्जात अर्जदाराने खालील गोष्टी नमूद केल्या पाहिजेत.

- १ अर्जदाराचे नांव.
- २ कुटुंबातील माणसांची नावे व नाते.
- ३ एकंदर कुटुंबाच्या जमिनीचे क्षेत्र व आकार.
- ४ एकंदर कर्ज व तडजोड कमिटीने केलेली कर्जाची व्यवस्था.
- ५ तडजोड कमिटीच्या ठरावाप्रमाणे हप्ते फेडण्याची अर्जदाराने अर्जाच्या तारखेपर्यंत केलेली तजवीज.
- ६ आपले उत्पन्न वाढविण्यासाठी केलेली तजवीज.
- ७ ऋणविमोचनाच्या पूर्वीचे सालिना उत्पन्न व अर्जाचे सालापूर्वीच्या वर्षी झालेले सालिना उत्पन्न.
- ८ कर्ज कोणत्या कारणाकरिता काढावयाचे.
- ९ कर्जाच्या अटीव्याजाचा दर.

~~१० सावकाराचे नांव व स्वामी कवली.~~

११ हे कर्ज कसे फेडण्याचा अर्जदाराचा विचार आहे.

नडकोड कृषी विभाग

३ या अर्जावर नोंद घेतल्यानंतर यांनी केलेला ठराव कायम समजण्यांत येईल व त्यावर कोणाकडेही अपील अगर तपासणी अर्ज चालणार नाही.

४ जर अर्ज मंजूर झाला तर नोंद घेतल्यानंतर हुकुम करतील त्या अटीवरच कर्ज काढण्यात येईल.

५ सोसायटीकडून कर्ज काढावयाचे असल्यासही वरील प्रकारचा अर्ज ऋणकोर्ने केला पाहिजे. मात्र तो सोसायटीच्या मार्फत पाठवावा.

६ कर्ज काढण्यास मंजूरी मिळाली तर ते कर्ज फेडण्याच्या योजनेबद्दल नोंद घेतल्यानंतर यांचा हुकुम असेल तो हुकुम अर्जदारांनं पाळला पाहिजे.

७ कोणतेही कर्ज फेडण्याचे कामी नोंद घेतल्यानंतर यांचा हुकुम होईल त्याप्रमाणे कोणाहि ऋणकोर्ने वागलें पाहिजे, व नोंद घेतल्यानंतर अंमलदारांस वारंवार लागेल ती माहिती पुरविली पाहिजे.

८ कोणाहि ऋणकोर्ने आपलें कर्ज व आपलें उत्पन्न यांजबद्दल पुरवलेली माहिती खाजगी समजली जाईल.

९ कोणाहि ऋणकोर्ने आपल्या जमिनींतील पीक अगर ऋणविमोचनाच्या योजनेप्रमाणे उत्पन्न वाढविण्याच्या हेतूने सुरू केलेल्या कोणत्याही धंद्यांतील पैदास यांची स्वतंत्रपणे विल्हेवाट न करितां ती सोसायटीमार्फत केली पाहिजे.

१० कोणाहि ऋणकोर्ने आपल्या शेतकी अगर बिनशेतकी उत्पन्नाचा सर्व हिशेब सोसायटीस अगर सरकारांतून नोंद घेतल्या अंमलदारास दिला पाहिजे व स्वतःच्या कुटुंबाच्या उपजीविकेस पुरेसे उत्पन्न सोसायटीच्या अगर अंमलदाराच्या संमतीने ठेवून बाकीच्या उत्पन्नाची विल्हेवाट त्यांच्या हुकुमाप्रमाणे केली पाहिजे.

११ कोणीहि ऋणकोर्ने अगर त्याचे कुटुंबांतील सर्व लोक अगर कोणाहि ऋणकोशी व्यवहार करणारे सर्व लोक यांना हे नियम लागू असून या नियमांचा कोणीहि कसलाहि भंग केल्यास तो प्रत्येक भंगाबद्दल १०० रु. पर्यंत दंडाला पात्र राहिल.

१२ सदरप्रमाणे दंडाचा हुकुम करण्याचा अधिकार कलम २४ प्रमाणे केलेल्या नियमांत ठरविलेल्या अंमलदारास असून, त्या नियमांना अनुसरूनच असा हुकुम करितां येईल.

कलम २४ खालील नियम.

१ या कायद्याच्या अंमलवारीसाठीं जरूर ते नियम करण्याचा अगर केलेल्या नियमांत दुरुस्ती करण्याचा अधिकार सरकारचा आहे.

२ सदरप्रमाणे नवीन नियम करण्याचे अगर नियमांत दुरुस्ती करण्याचे कामी सरकारला सल्ला देणेंसाठीं खालीलप्रमाणे कायम कमिटी नेमण्यांत येईल.

- १ ना. रा. व. सरन्यायाधीश.
- २ ना. " दिवाण.
- ३ ना. ~~रा. व. सरन्यायाधीश~~ एफ. ए. ए.
- ४ ना. रा. सा. जिल्हा न्यायाधीश.
- ५ ना. प्रातिनिधिक सभेचा एक प्रतिनिधि.

सदर कमिटीचे नवीन नियम करण्याचे कामी सल्ला घेऊन मगच सदर नियम कायम करून प्रसिद्ध करण्यांत येतील.

३ सरकारच्या गॅझेटमध्ये या कायद्याखाली प्रसिद्ध झालेल्या कोणत्याही नियमाचा अगर मूळ कायद्याचा कोणाही इसमाने भंग केल्याचे भाडळून आल्यास तो रु. १०० पर्यंत दंडास पात्र होईल.

४ अशा तऱ्हेचा भंग स्थानिक अधिकाऱ्याच्या निदर्शनास येतांच त्याबद्दल त्यांनी चार दिवसांचे आत नोंद घेतल्यानंतर यांचे रिपोर्ट केला पाहिजे.

५ ना. दरबारमंत्री यांचेकडे रिपोर्ट आल्यावर त्यांनी सरकार मंजूरीने रा. सा. दि. मा. सं. ऑथ यांचेकडे सदर काम चौकशीसाठीं पाठवावे. व ज्याने नियम भंग केला असेल त्याला

आपले म्हणणे पुढे मांडण्याची योग्य संघि देऊन वर नियम ३ मध्ये सांगितल्याप्रमाणे रा. सा. डिस्ट्रिक्ट मॅजिस्ट्रेट यांना त्यांचे योग्य तें शासन करण्याचा अधिकार आहे.

६ दि. मा. यांनी दंड करण्यापूर्वी जी चवकशी करावयाची ती समरी पद्धतीने करावयाची असून क्रि. प्रो. कोडप्रमाणे समरी ट्रायलची पद्धति शक्यतोवर त्यांनी अवलंबिली पाहिजे.

७ दि. मा. यांच्या दंडाच्या हुकुमावर फक्त एकच तपासणी अर्ज ना. सरन्यायाधीश यांचेकडे करिता येईल व अधिकारसिक्का अगर उचडअत्याय झाला असेल तरच ना. सरन्यायाधीश यांना तो हुकूम फिरविता येईल. "

कलम २६ प्रमाणे निषेध:

८ ज्या गांवाला हा कायदा लागू केला असेल त्या गांवांतील प्रत्येक ऋणकोवर अगर जमिनीच्या धारण करणारावर हे नियम बंधनकारक राहतील.

९ कोणाहि ऋणकोची ऋणमुक्तता या कायदाप्रमाणे नसू केली असेल व त्याने ज्या नियमांप्रमाणे वागण्यांत कसूर केल्याचे आढळून आले तर, त्याच्या हुकुमाने त्याचेकरिता सरकार भारत असलेल्या हप्त्याची फेड उत्पन्नांतून होईल इतकी स्थावर मिळकत सरकारांत हप्त्याची फेड होईपर्यंत घेतली जाईल.

१० सरकारांत घेतलेली मिळकत कोणत्याहि वर्षाचा हत्ता मर्यादित असून त्याच्या हुकुमाने इतर स्थावर व जंगम मिळकत सरकारांत घेता येईल. व ती सर्व कर्जाची फेड होईपर्यंत परत देण्यांत येणार नाही.

११ प्रत्येक ऋणकोने त्या सोसायटीचे मॅबर झाले पाहिजे व त्या सोसायटीच्या नियमांप्रमाणे वागले पाहिजे.

१२ प्रत्येक ऋणकोने २० ते २५ कोंबड्या प्रथमतः त्याची जोपासना वेळोवेळी हुकूम होईल त्याप्रमाणे करावी.

१३ कोंबड्यांच्या सोसायटीचे सर्व ऋणकोनी सभामद झाले पाहिजे व कोंबड्या व त्यांची अंडी सोसायटीमार्फतच विकली पाहिजेत.

१४ यांचा हुकूम होईल तो झाडे वेळोवेळी सर्व ऋणकोनीं सांभाळून घ्यावेत व त्या झाडांची पाने, फळे व रस वगैरेची विल्हेवाट त्या कामाकरिता काढलेल्या सोसायटीमार्फतच केली पाहिजे.

१५ प्रत्येक ऋणकोने आपल्या शेतांतील पिकांची जोपासना सरकारचे त्याबाबतचे अधिकारी ज्या सूचना करितील त्याप्रमाणे केली पाहिजे.

१६ गांवांतील कोणाहि जमिनीच्या धारणकरणाराने आपले जमिनींत जें बीं पेरण्याचे तें ग्रामभेच्यावतीनेच घेतलें पाहिजे. याखेरीज दुसरे बीं पेरण्याची मनाई आहे.

१७ गांवांतील कसलेही तटबखडे गांवपंचामार्फत अगर समितीमार्फत निवाडा करण्यास सोपविले पाहिजेत.

१८ लग्नकार्य, जन्म, मयताचे उत्तरकार्य यांकरिता ग्रामसभा ठरविले तितकीच रकम खर्च केली पाहिजे व खर्चाचे हिशेब ग्रामसभेच्या कार्य झाल्यापासून एक महिन्याचेभांत दिले पाहिजेत.

१९ ज्या गांवाला ही योजना लागू होईल त्या गांवांत ग्रामसभा स्थापन झाली पाहिजे.

या प्रमाणे न्यायाधीशाने ठरविले आहे

रच

ऋणविमोचन कायद्याचा मसुदा.

—१२३३३३३३—

सिलेक्ट कमिटीने दुरुस्त केलेल्या ऋणविमोचनासंबंधी कायद्याच्या मसुदांत मी आणखी काही दुरुस्त्या सुचवीत आहे. त्यापैकी बऱ्याचशा किरकोळ आहेत, पण मुख्य तीनचार आहेत, त्या खेणेप्रमाणे:—

१. तहजोड कमिटीने कोणत्या तत्वांवर तहजोड करावी यासंबंधी कायद्यांत स्पष्ट कलम असावे. (दुरुस्ती ८ पहा.)
२. दिवाणी कोर्टाने दिलेल्या हुकुमनाम्यांतही तहजोड कमिटीने या तत्त्वानुसार फेरफार करावा. (दुरुस्ती १२ पहा.)
३. सर्वच कर्जफेड सरकारने करू नये; जेथे तहजोड केल्यावर कर्जाची रक्कम ऋणकोच्या आटोक्यांत येईल तेथे शाक्य तोंवर तहजोड कमिटीने योग्य अशी हसेबंदी ठरवून घावी. अशा कर्जांच्या फेडीचा बोजा सरकारवर असू नये. सरकारच्या प्रत्यक्ष मदतीवाचून कर्जफेड होणे अशक्य असेल तेथेच तिजोरी रोख्यांच्या द्वारा कर्जाची फेड करण्यास सरकारने पुढे यावे. (दुरुस्ती १० व १६ पहा.)
४. याप्रमाणे सरकारची प्रत्यक्ष मदत होईल अशा ऋणकोवरच नवीन कर्ज न काढण्यासंबंधाचे अथवा आपले उत्पन्न वाढविण्यासंबंधाचे निर्बंध लादवे; इतरांवर हे निर्बंध लाडू नयेत. (दुरुस्ती १९ व २२ पहा.)

श्री. ग. वझे.

सुचविलेल्या दुरुस्त्या.

१. कलम २ (ब) यामधील “गांवांतील....त्यानंतरच” या शब्दांऐवजी “संस्थानचे गॅझेटमध्ये तसे प्रसिद्ध करण्यांत येईल तेव्हाच” हे शब्द घालावेत.
२. कलम २ (क) गाळावे.
३. कलम ४ (१) गाळावे.
४. कलम ४ (२) यामधील “तिची” व “फेड” या शब्दांच्या दरम्यान “तहजोडीने” हा शब्द घालावा.
५. कलम ४ (३) गाळावे.
६. कलम ४ (४) गाळून त्याऐवजी सलील कलम घालावे: “कर्ज:—सरकार, बँक व सोसायटी यांसेरीज इतर सर्व प्रकारच्या घनकोचे तारणावरील अथवा तारणा-शिवायचे, कोर्टाच्या हुकुमनाम्याने देवविलेले अथवा न देवविलेले, फेडीची मुदत झालेले अथवा न झालेले, पण मुदतीबाहेर न गेलेले वेणे.”

७. कलम ४ (८) यांतील " किती देणे आहे " व " हे " यांच्या दरम्यान " व त्याची तदजोड व फेड कशी करावी " हे शब्द घालावेत.

८. कलम ५ बद्दल सार्वील कलम घालावे:

" तदजोड कमिटीचे काम:-तदजोड कमिटीने करावयाचे काम दोन प्रकारचे असेल: १. ऋणकोने घनकोचे कर्ज किती देणे आहे हे, दक्षिणेतील शेतकऱ्यांस मदत करण्याविषयीच्या १८७९ च्या कायद्याच्या १२ व १३ कलमांन्वये ठरविणे; व २. अशा रीतिने ठरलेल्या कर्जाची तदजोड करणे. कर्जाची तदजोड करते वेळी कमिटीने सार्वील गोष्टी विचारांत घ्याव्या:

- (१) कर्ज केव्हांपासूनच आहे व कर्जाच्या पोटी किती रक्कम परत केली;
- (२) व्याजाचा दर कोणता ठरला होता व व्याजाची रक्कम किती दिली आहे;
- (३) कर्ज कशासाठी काढले होते;
- (४) कर्जाच्या अटी जाचक होत्या किंवा काय;
- (५) कर्ज काढल्यापासून त्या गांवांतील किंवा आसपासच्या जमिनीच्या आणि पिकांच्या किंमतीत अंतर पडले आहे किंवा काय;
- (६) कर्ज फेडण्याची ऋणकोची ऐपत किती आहे. "

९. कलम ५ (अ) यांतील " त्यांना तदजोड कमिटीपुढे हजर करून घेण्याचा " याऐवजी " त्यांना आपणापुढे हजर करून घेण्याचा " असे शब्द घालावेत.

१०. कलम ५ (ब) ऐवजी पुढील कलम घालावे :

" तदजोड कमिटीने तदजोड केलेल्या कर्जाच्या फेडीची व्यवस्था करावयाची ती पुढीलपैकी कोणत्याही मार्गाने करावी :

- (१) जास्तीत जास्त वीस वर्षांच्या हप्त्यांनी ऋणकोने कर्जाची फेड करावी असा हुकूम करावा;
- (२) घनकोला तिजोरी रोखे देऊन कर्जफेड करण्याची शिफारस करावी; किंवा
- (३) ऋणकोच्या व त्यावर अवलंबून असलेल्या त्याच्या कुटुंबातील माणसांच्या निर्वाहाला जरूर असेल तेवढी, एक-चतुर्थांश किंवा यासारखी, त्याची जमीन व इतर मालमत्ता त्याजकडे अनिवेध ठेवून शिल्पक राहिलेल्या जमिनीचा कबजा जास्तीत जास्त वीस वर्षेपर्यंत घनकोकडे यावा अगर अशा जमिनीची किंवा इतर मालमत्तेची विक्री करावी आणि या रीतिने कर्जाची फेड करावी असा हुकूम करावा.

" यापैकी कोणत्याही मार्गाने कर्जफेड करण्याचे तदजोड कमिटीने ठरविले तरी ऋणकोच्या संमतीवांचून यासंबंधात असेरचा ठराव कमिटीने करू नये. या कलमातील (१) या पोटकलमांत निर्दिष्ट केल्याप्रमाणे हतेबंदीचा हुकूम तदजोड कमिटीने केल्यास कमिटी ठरविल त्याप्रमाणे हते भरण्याची जबाबदारी ऋणकोवर राहिल. यापैकी एकादा हता त्याजकडून वेळेवर भरला न गेला तर त्या हप्त्याची रक्कम व त्यावरील व्याजाची रक्कम थकलेल्या शेतसाऱ्याप्रमाणे अथवा इतर

सरकारी देण्याप्रमाणें वसूल करून मिळण्याबद्दल धनकोस सरकारांत अर्ज करतां येईल. असा अर्ज आल्यास त्याप्रमाणें सरकार तजवीज करील. या कलमांत सांगितलेल्या कोणत्याही व्यवहाराचे बाबतींत जे कागदपत्र होतील त्यांना कोर्ट फी व रजिस्ट्रेशन यांची माफी मिळेल.”

११. कलम ९ हे गाळून त्याऐवजी पुढील कलम घालावे.

“(अ) एकाद्या गांवातील सर्व धनकोर्नांनी आपापले किती कर्ज येणें आहे याविषयीची सविस्तर माहिती यावी व त्यासंबंधीचे सर्व कागदपत्र हजर करावे अशा अर्थाची सरकारने जाहीर नोटीस दिल्यानंतर कोणी धनको ठरावीक मुदतीत तसें करण्यास जुकल्यास त्याचें कर्ज बाद झालें असें तहजोड कमिटी ठरवील. मात्र तहजोड कमिटीस योग्य कारण विसेल तर कोणाही धनकोच्या बाबतींत ही मुदत वाढविण्याचा अथवा बाद ठरविलेले कर्ज तहजोडीसाठीं फिरून विचारांत घेण्याचा तहजोड कमिटीस अधिकार राहिल.

(ब) तसेंच कोणी ऋणको तहजोडीस अवश्य असलेली माहिती पुरविण्यास असमर्थ असला अथवा तो जाणूनबुजून सोटी माहिती देतो अथवा इतर लबाडीचे प्रकार करतो असें दिसून आलें तर त्याच्या कर्जाची तहजोड करण्याचें रहित करण्याचा अधिकार तहजोड कमिटीस आहे.”

१२. कलम १० (ब) यांतील “ त्यांची अंमलबजावणी ” येथून पुढील सर्व शब्द गाळावे व त्याऐवजीं खालील शब्द घालावेत:—

“ त्यांत तहजोड कमिटीनें कांहीं फेरफार केला नसला तरच हा कायदा लागू झाल्यानंतर दिवाणी कोर्टांनें करावी. ”

१३. कलम १३ यांतील प्रथमपासून “ एकंदर देणें रकमेच्या ठरावावरच फक्त ” हे सर्व शब्द गाळावेत व त्याबद्दल “ तहजोड कमिटीनें केलेल्या ठरावाविरुद्ध ऋणकोची अथवा धनकोची तक्रार असल्यास ” हे शब्द घालावेत.

१४. कलम १४ यांतील “ येणार नाही ” याऐवजीं “ येईल ” असा शब्द घालावा.

१५. कलम १५ गाळावे.

१६. कलम १६ गाळावे.

१७. कलम १७ यांतील “ तहजोड कमिटींतून ठरविण्यांत आलेल्या हुकुमाप्रमाणें ” हे शब्द गाळावे व त्याऐवजीं “ तहजोड कमिटीनें कर्जरोसे देऊन कर्जाची फेद करण्याबद्दल शिफारस केली असल्यास त्या शिफारशीप्रमाणें ” हे शब्द घालावेत.

१८. कलम १९ यांतील “ ज्या ऋणकोचें.....निश्चित केलेलें आहे ” हे शब्द गाळावेत, आणि त्याऐवजीं “ ज्या ऋणकोची कर्जफेद कर्जरोसे देऊन झाली असेल ” हे शब्द घालावेत. तसेंच “ राहिल. व ” आणि “ तहजोड कमिटीनें ” यांच्या वरम्यान “ अशा ऋणकोच्या बाबतींत ” हे शब्द घालावेत.

१९. कलम २२ यांतील आरंभीचे “ ज्या गांवास.....कोणाही इसमास ” हे शब्द गाळून त्याऐवजीं “ (अ) ज्या इसमाचें कर्ज तिजोरी रोसे देऊन फेडण्यांत येईल त्या इसमास ” हे शब्द घालावे.

२०. कलम २२ चे शेवटीं नवीन पोटकलम सालीलप्रमाणें घालावें :

“ (ब) तथापि अशा इसमास सोसायटीकडून कर्ज मिळण्यापूर्वी पैशाची निकड लागली व त्यानें इतरांकडून उसनवार अथवा कर्जाक रकम घेतली तर, अशा इसमांना नवीन कर्ज काढण्यास मंजुरी देण्यासाठीं सरकारनें .. नेमलेल्या अंमलदारास तें योग्य वाटल्यास, हें कर्ज तो मंजूर करूं शकेल. ”

२१. कलम २४ गाळावें.

२२. कलम २६ मधील आरंभीचे “ ज्या गांवास....त्यानें ” हे शब्द गाळावे व त्याऐवजीं “ ज्या इसमाचें कर्ज तिजोरी रोखे देऊन फेडण्यांत येईल त्यानें ” हे शब्द घालावे.

२२ अ. कलम २९ नंतर पुढील नवीन कलम घालावें:

“ दूरवर्षीं संस्थानचें बजेट प्रातिनिधिक सभेपुढें मांडण्यापूर्वीं सरकार या कायद्याची अंमलबजावणी गेल्या वर्षीं कशी झाली याबद्दल तपशीलवार रिपोर्ट प्रसिद्ध करील. त्यांत इतर माहितीबरोबर सरकार श्रीमंत राजेसाहेब यांनीं या कार्यासाठीं दरसाल वसि हजार रुपये खर्चण्याचें आश्वासन दिलेल्या रकमेचा हिशेबही देण्यांत येईल. ”

२३. कलम २ (क) यासालील सर्व नियम गाळावे.

२४. “ तडजोड कमिटीचे नियम ” या सदरातील नियम १ गाळून त्याऐवजीं सालील नियम घालावा:—

“ कोणत्याही गांवाला हा कायदा लागू करण्याचें सरकारनें ठरविल्यानंतर शक्य तितक्या लवकर मासेलदार यांनीं त्या गांवातील सर्व ऋणको व धनको यांना आपापल्या देण्याघेण्याच्या याद्या एक महिन्याच्या आंत आपणांकडे गुदरण्याबद्दल जाहीर नोटीस काढावी; व या याद्यांत ऋणको व धनको या नात्यानें ज्या इसमांचीं नांवे येतील त्यांजकडून आपापल्या देण्याघेण्याची यादी आलेली नाही असें आढळून आलें तर त्यांना १५ दिवसांची स्पेशल नोटीस देऊन त्यांजकडून ही यादी मागवावी. अशा तऱ्हेनें मिळेल ती सर्व माहिती, एकत्र जुळवून मासेलदारांनीं ती आपल्या रिपोर्टांसह तडजोड कमिटीकडे पाठवावी.

(अ) ऋणकोकडून पुढील माहिती मागवावी:—

- (१) त्याला कोणकोणत्या सावकारांचें देणें आहे त्यांचीं नांवे व पत्ते;
- (२) या सावकारांकडून त्यानें प्रारंभी किती कर्ज काढलें व केव्हां काढलें, कर्जावर व्याज काय ठरलें होतें, पुढें व्यवहार कसकसे झाले, आतांपर्यंत मुद्दल किती फेदलें व व्याज किती दिलें, व आतां, त्याच्या समजुतीप्रमाणें, किती मुद्दल व व्याज देणें शिष्टक राहिलें आहे;
- (३) कर्ज कशासाठीं काढलें;
- (४) आजमितीस त्याचें स्वतःचें व त्याच्या कुटुंबाचें उत्पन्न किती आहे; त्यावर अवलंबून असलेलीं माणसें किती; त्याची व त्याच्या कुटुंबाची स्यावर जंगम मिळकत कोणती व किती किंमतीची आहे.

(ब) धनकोकडून पुढील माहिती मागवावी:—

(१) कोणकोणत्या कर्जदारांनी त्याचें देणें आहे त्यांचीं नांवें व पत्ते;

(२) या कर्जदारांनी त्याजकडून प्रारंभी किती कर्ज घेतलें व तें केव्हां घेतलें, कर्जावर व्याज काय ठरलें होतें, पुढें व्यवहार कसकसे झाले, आतांपर्यंत मुद्दल किती फिटलें व व्याज किती मिळालें, आणि आजमितीस किती मुद्दल व व्याज देणें शिल्लक राहिलें आहे;

(३) कर्जदारांनी कर्ज कशासाठी घेतलें;

(४) आजमितीस, त्याच्या समजुतीप्रमाणें, कर्जदारांचें उत्पन्न आणि स्थावरजंगम मिळकत किती आहे आणि त्याने दिलेल्या कर्जाची फेड ते किती व कशी करूं शकतील असें त्याला वाटतें. ”

२५. “ तडजोड कमिटीचें नियम ” या सदरांतील नियम ४ गाळावा.

२६. “ तडजोड कमिटीचे नियम ” या सदरांतील नियम ६ यांतील कोष्टक ९ गाळून त्याऐवजीं सालील कोष्टकें घालावी:—

(९) ऋणकोकडून आतां वाजवी मुद्दल येणें किती निघतें.

(१०) ऋणकोकडून आतां वाजवी व्याज येणें किती निघतें.

(११) या मुद्दलाची व व्याजाची तडजोड कोणत्या रकमेवर व्हावी असा तडजोड कमिटीनें हुकूम केला आहे व तो हुकूम करण्याचीं कारणें.

२७. “ तडजोड कमिटीचे नियम ” या सदरांतील नियम ६ यांतील कोष्टक १२ गाळावें.

२८. “ तडजोड कमिटीचे नियम ” या सदरांतील नियम ११ यांतील प्रारंभीचें “ तडजोड कमिटीनें ठराव केल्यानंतर तिनें ” या शब्दांऐवजीं “ ऋणकोच्या कर्जाची फेड तिजोरी रोखे देऊन करावी असें तडजोड कमिटीनें ठरविल्यास तिनें ” हे शब्द घालावेत.

२९. “ कलम २५ प्रमाणें केलेले नियम ” या सदरांतील नियम १ गाळून त्याऐवजीं पुढीलप्रमाणें नियम घालावा:— “ ज्या कोणा ऋणकोचें देण सरकारनें तिजोरी रोख्यांच्या द्वारा फेडलें असेल त्या ऋणकोस १० रुपये किंवा १० रुपयांपेक्षां कमी इतकें नवें कर्ज काढावयाचें असेल त्यानें कलम २३ मध्ये निर्दिष्ट केलेल्या अंमलदाराकडे त्यासंबंधानें अर्ज करावा, व या अंमलदारानें सर्व गोष्टींचा विचार करून अशा अर्जाचा आपल्या अधिकारांत निकाल करावा. १० रुपयांपेक्षां जास्त कर्ज काढावयाचें असल्यास अशा ऋणकोनें मामलेदार यांजकडे अर्ज करून त्याची लेखी मंजूरी मिळविली पाहिजे. ”

३०. “ कलम २५ प्रमाणें केलेले नियम ” या सदरांतील नियम ३, ४, ६ व ७ यांत जेथें जेथें “ तडजोड कमिटीचे अध्यक्ष ” असे शब्द आहेत तेथें तेथें “मामलेदार” असा शब्द घालावा.

३१. “ कलम २५ प्रमाणें केलेले नियम ” या सदरांतील नियम ९ च्या प्रारंभी “ तशी सोसायटीनें व्यवस्था केली असल्यास ” हे शब्द घालावेत.

३२. “कलम २५ प्रमाणें केलेले नियम ” या सदरांतील नियम १० यांतील पहिला शब्द “कोणाही ” हा गाळावा व त्याऐवजी “ ज्याच्या कर्जाची फेड सरकारने तिजोरी रोखे देऊन केली असेल अशा प्रत्येक ” असे शब्द घालावेत.
३३. “कलम २५ व २६ सालील नियम ” या सदरांतील नियम २ यांतील कोष्टक ५ गाळून त्याऐवजी “ प्रातिनिधिक सभेचे तीन सभासद ” असे शब्द घालावेत.
३४. “कलम २५ व २६ सालील नियम ” या सदरांतील नियम ४ यांतील “ तह-जोड कमिटीचे अध्यक्ष ” या शब्दाऐवजी “ मामलेदार ” हा शब्द घालावा.
३५. “कलम २५ व २६ सालील नियम ” या सदरांतील नियम ५ यांतील आरंभीचे “ ना. दरबारमंत्री ” हे शब्द गाळून त्याऐवजी “ मामलेदार ” हा शब्द घालावा.
३६. “कलम २५ व २६ सालील नियम ” या सदरांतील ८ ते २१ हे सर्व नियम गाळून त्याऐवजी सालील नियम घालावा:—

“ झाडें लावणें, सूत कातणें, विणणें, कोंबह्या, मॅढ्या अथवा गाई पाळणें या व अशा इतर मार्गांनी आपलें उत्पन्न वाढविण्याच्या हेतूनें सरकारनें कोणास कांहीं उद्योग करण्यास सांगितल्यास, तसेंच सहकारी पद्धतीनें उत्पादक वंदा अगर मालाची विक्री करण्यास सांगितल्यास, तसेंच लग्नकार्य वगैरे बाबतीत खर्च कमी करण्यास सांगितल्यास ज्या ऋणकोच्या कर्जाची फेड सरकारनें तिजोरी रोख्यांनीं केली असेल अशा प्रत्येक ऋणकोनें त्याप्रमाणें वागलें पाहिजे. ”

औंध संस्थानच्या ऋणविमोचनासंबंधी

कायद्याचा मसुदा

ऋणविमोचन कमिटीने तयार केलेला.

ज्यावयीं औंध संस्थानातील प्रजेचें ऋणविमोचन करणें अगत्याचें आहे, व ज्यावयीं रीप्यमहोत्सवाचे निळीं सरकार श्रीमंत राजेसहैब यांनी या कार्यासाठीं दरसाल रुपये २०,००० खर्च करण्याचें जाहीर केलें आहे, त्यावयीं खालीलप्रमाणें कायदा करण्यांत येत आहे.

भाग १ ला.

प्राथमिक.

१. सरनामा :- या कायद्यास औंध संस्थानातील ऋणविमोचनाचा कायदा असे म्हणावें.

२. व्याप्ति :- (अ) हा कायदा ज्या गांवांस ज्या तारखेपासून लागू करणेंसंबंधी सरकारचा जाहिलनामा संस्कारच्या गॅझेटमध्ये प्रसिद्ध होईल, त्या तारखेपासून त्या गांवांतील ऋणकोस व त्या गांवांतील कोणत्याही ऋणकोशी देवघेवीचा व्यवहार करणाऱ्या त्या गावांत अगर त्या गावाबाहेर राहणाऱ्या घनकोस लागू होईल.

(ब) गांवांतील सर्व ऋणकोषें या कायद्याखालीं पूर्ण ऋणविमोचन होऊन त्यासंबंधी संस्थानचें गॅझेटमध्ये प्रसिद्धी करण्यांत येईल व त्यानंतरच या कायद्याची त्या गांवांतील अंमलवारी बंद होईल.

(क) कोणत्याही गांवास हा कायदा लागू झाल्यानंतर परगांवातून त्या गावात राहण्यास जाणाऱ्या कोणाहि व्यक्तीला हा कायदा लागू करणें अगर न करणें हें सर्वस्वी देवघेवीच्या मूर्जीवर अवलंबून राहिले व हरवारचा याबाबत ठेराव झाल्यानंतर तो संस्थानचे गॅझेटमध्ये प्रसिद्ध करण्यांत येईल.

(ड) ज्या गांवास हा कायदा लागू करण्यांत येईल त्या गांवांतील कोणाहि ऋणकोससमवेत गांव संस्थानचे गॅझेटमध्ये प्रसिद्ध करून त्याला सरकारचे मूर्जीप्रमाणें या कायद्याच्या अंमलवारीतून वगळता येईल, तसेच ज्या ऋणकोषें कर्ब कधीहि फिटणें शक्य नाही त्याचें नांव संस्थानचें गॅझेटमध्ये प्रसिद्ध करून त्याला या कायद्याच्या अंमलवारीतून वगळता येईल.

३. विरोधी कायद्याची अंमलवारी तद्दुब :- या कायद्यास विरोधी असे जे कायदे अगर कायदे हल्ली संस्थानांत लागू असतील ते हा कायदा लागू असेपर्यंत तेवढ्यापुरते रद्द समजून त्यांचा अंमल हा कायदा लागू असेतोपर्यंत या कायद्याला विरोध येईल अशा रीतीने करण्यांत येणार नाही.

४. व्याख्या :-

१. शेतकरी :- औंध संस्थानचे हद्दीत राहून स्वतः अगर तोकरामाफत शेत कसून शेतीवर सर्वथंय अगर मुख्यतः उदरनिर्वाह करणारा, रयतवा, अगर पैनामी जमीन धारण करणारा, खातेदार अगर शेट हिस्सेदार यास शेतकरी म्हणावें. त्याजवर अवलंबून असलेली व त्याजबरोबरच राहात असलेली एकत्र कुटुंबातील पोट हिस्सेदार माणसे यांचाही शेतकरी शब्दांत समावेश होतो. ज्या जमीनधारण करणारानें आपल्या जमीनी लागणीने अगर खजाने दुसऱ्या शेतकऱ्यांस शेती करणेसाठी दिल्या आहेत, त्यांचाहि शेतकरी या शब्दांत समावेश होतो.

२. पैसा :- यांत शेतीतील अगर बिनशेतीच्या घंटांतील उत्पन्न अगर पैदास यांचा समावेश होईल.

३. उर्मी पिके :- यांत जमीनीस लागून असलेली सर्व प्रकारची पिके, तसेच झाडे व वनस्पती, फळे व रस यांचा समावेश होतो.

४. तडजोड कमिटी :- गांवांतील ऋणकोषें ऋजांची रक्कम निश्चित करून तिची फेड कशी करावी तें ठरविण्यासाठी सरकारांतून नेमलेली कमिटी.

५. ऋणविमोचन :- बँक, सहकारी संस्था अगर कोणत्याही कायद्याखाली नोंदलेल्या संस्था माखेरीज इतर सावकाशाचे कर्जातून ऋणकोषी मुक्तता करणें.

६. ऋण - बँक, सहकारी संस्था अगर कोणत्याही कायद्याखाली नोंदलेल्या संस्था यांचेरीज इतर सर्व प्रकारच्या धनकोषे देणे.

७. बँक : - ऑन संस्थान मध्यवर्ती बँक लिमिटेड.

८. सासायटी : - कोऑपरेटिव्ह सोसायटीचा कायद्याखाली नोंदलेली ओव् संस्थानांतील सासायटी.

९. तिजोरी रोखे : - ओव् संस्थानचे तिजोरी रोखे.

१०. तपासणी कमिटी : - एखाद्या ऋणकोने सावकारास किती देणे आहे, हे तडजोडकमिटीने ठरविले असता त्या ठरावाचा फेरविचार करण्याकरिता सरकारने नेमलेली ना. सरन्यायाधीश व एक वरिष्ठ अधिकारी यांची कमिटी.

भाग २ रा.

ऋणविमोचन.

५. तडजोड कमिटीचा अधिकार.-

कोणत्याही ऋणकोने सावकाराचे नक्की देणे किती आहे, ते चौकशी करून अगर तडजोडीने ठरविण्याचा तसेच ते देणे कसे व केव्हा फेडावयाचे ते ठरविण्याचा अधिकार तडजोड कमिटीस आहे.

६. तडजोड कमिटीस दिवाणी कोर्टाचे अधिकार.-

ऋणको अगर धनको यांना समन्स करण्याचा, त्यांना तडजोड कमिटीपुढे हजर करून घेण्याचा, कर्जासंबंधी पुरावा घेऊन अगर अन्य मार्गांनी चौकशी करण्याचा, कागदपत्र व हिशोब मागून घेण्याचा, तडजोड करण्याचा व अखेर निकाल देण्याचा, तसेच सर्वसाधारणपणे दिवाणी कोर्टास असलेले सर्व अधिकार तडजोड कमिटीस आहेत.

७. तडजोड कमिटीचा हुकूम.-

७. तडजोड कमिटीने केलेला ठराव दिवाणी कोर्टाच्या हुकूमनाम्याप्रमाणे समजण्यात येईल. मात्र सदर हुकुमाची अंमलवारी या कायद्यांत निर्दिष्ट केलेल्या मार्गांनीच फक्त करता येईल.

८. तडजोड कमिटी धनकोने ऋणकोकडून एकंदर जी वसूल करावयाची रक्कम ठरविले, त्या रकमेपैकी मुद्दल रकमेवर व्याज देणे झाल्याम दरसाल दरशेकडा ५ टक्क्यांपेक्षा जास्त व्याज पुढे देता येणार नाही.

९. तडजोड कमिटीस खालील व्यवहारांचे बाबतीत कोणताही ठराव करता येणार नाही :-

(अ) ज्या तारखेस हा कायदा लागू करण्यात येईल, त्या तारखेस मुदतीतून गेलेली देणी.

(ब) दिवाणी कोर्टाने ज्या व्यवहारांचे बाबतीत हुकूमनामा केलेला आहे ते सर्व व्यवहार.

मात्र (ब) मधील देण्याचे बाबतीत ते देणे कशा रीतीने फेडावे ते तडजोड कमिटीस ठरविता येईल व दिवाणी कोर्टाने देणे फेडण्याच्या प्रकाराबद्दल जर काही हुकूम केलेला असेल तर त्या हुकुमांतही एकंदर देणे रक्कम जी कोर्टाने ठरविली असेल, त्या रकमेत फरक न करता देणे फेडण्याच्या प्रकाराबद्दल या कायद्यांत निर्दिष्ट केलेल्या योजनेला अनुसरून जरूर ते फरक करता येतील.

१०. (अ) ज्या गांवाला हा कायदा लागू करण्यात येईल त्या गांवात राहणाऱ्या (अगर त्या गांवातील जमीन धारण करणाऱ्या) कोणाही ऋणकोविरुद्ध दिवाणी कोर्टात प्रॉमिसरी नोट, तारण अगर कब्जे-गहाण, मुदत खरेदी या व्यवहारांबद्दल अगर अन्य प्रकारच्या हातावरील अगर अन्य प्रकारच्या कर्जाबद्दल चालू असलेले दावे चालविण्याचा अगर सदर दाव्यांत कोणताही हुकूमनामा करण्याचा ज्या तारखेस हा कायदा सदर गांवास लागू करण्यात येईल त्या तारखेपासून व हा कायदा सदर गांवाला अमलांत असे तोपर्यंत दिवाणी कोर्टास अधिकार राहणार नाही.

(ब) हा कायदा लागू होण्यापूर्वी दिवाणी कोर्टाने ज्या गांवाला हा कायदा लागू करण्यात येईल त्या गांवात राहणाऱ्या ऋणकोविरुद्ध जे कर्जासंबंधी हुकूमनामे केले असतील त्याची अंमलबजावणी हा कायदा लागू झाल्यानंतर दिवाणी कोर्टास करण्याचा अधिकार नसून त्या हुकूमनाम्याची फेड कशी करावी ते तडजोडकमिटीने ठरवावयाचे आहे.

(क) अशा तऱ्हेच्या सर्व दाव्यांतील कागदपत्र दिवाणी कोर्टाने तडजोड कमिटीकडे जाहीरनामा प्रसिद्ध झाल्यापासून एक महिन्याचे आत पाठविणे पाहिजेत.

(४) जे दावे दिवाणी कोर्टांत हा कायदा एखाद्या गांवास लागू होण्यापूर्वी दाखल झाले असतील, त्या दाव्यांतील कागदपत्र वरील पोट कलम (क) प्रमाणे तडजोडकमिटीकडे पाठविणेचे वेळी त्या दाव्यांतील फिर्दादीसोबत दिलेल्या दाव्याचे रकमेवरील स्टांपाची रक्कम कलेक्टरने वादीस परत देण्याबद्दल कोर्टफीअॅक्टाप्रमाणे सर्टिफिकेट दिवाणी कोर्टास योग्य वाटल्यास देता येईल.

११ तडजोड कमिटी आपसात तडजोडीने अगर स्वतः चौकशी करून जो निकाल देईल तो अखेरचा समजणेत येईल व त्यावर अपील अगर तपासणी अर्ज कोणत्याही कोर्टाकडे चालणार नाही.

१२ तडजोड कमिटीने दिलेल्या कोणत्याही ठरावाबद्दल दाद देण्याचा, अगर त्यात फेरफार करण्याचा अगर ज्या देण्याबद्दल तडजोड कमिटीने ठराव केलेला असेल त्या देण्याबद्दल कांहीही चौकशी करण्याचा अगर हुकूमनामा करण्याचा अधिकार दिवाणी कोर्टास नाही.

१३ तडजोड कमिटीने एखाद्या ऋणकोने धनकोस एकंदर किती रक्कम द्यावी हें ठरविले असता तिच्या एकंदर देणे रकमेच्या ठरावावरच फक्त तपासणी कमिटीकडे एक तपासणी अर्ज धनको अगर रिणको यांपैकी कोणासही करितां येईल व तपासणी कमिटीला सिव्हिल प्रोसिजर कोडच्या दुसऱ्या शेड्यूलच्या पैरा, १५ (अ) व १५ (ब) मधील कारणांकरितांच फक्त सदर ठराव फिरवितां अगर त्यांत फरक करितां, अगर पुन्हां तडजोड कमिटीकडे फेरविचाराकरितां पाठवितां येईल. या कारणाखेरीज दुसऱ्या कोणत्याही कारणाकरितां सदर ठराव फिरविण्याचा तपासणी कमिटीला अधिकार नाही.

१४ तडजोड कमिटीपुढे अगर तपासणी कमिटीपुढे धनको अगर ऋणको यांना वकीलमार्फत हजर राहतां येणार नाही.

१५ तडजोड कमिटीने अगर तपासणी कमिटीने केलेला कोणताही हुकूम योग्य कारणाशिवाय धनको अगर ऋणको यांनी अमान्य केल्यास हुकूम अमान्य करणारास समी चौकशी करून जास्तीत जास्त ५० रुपये पर्यंत दंड करण्याचा या कमिट्यांना अधिकार आहे; व असा दंडाचा हुकूम जर तडजोड कमिटीने केलेला असेल तर त्यावर तपासणी कमिटीकडे अर्ज करतां येईल.

१६ तडजोड कमिटीकडून सावकाराचे देण्याबंदी जो निर्णय देण्यांत येईल त्यास अनुसरून सावकाराचे देण्याची फेड करण्याची सर्व जबाबदारी सरकारवर आहे.

१७ तडजोड कमिटीतून ठरविण्यांत आलेल्या हुकुमाप्रमाणे धनकोस सरकारी तिजोरीतून रक्कम देण्याबद्दल जर त्या मुदतीचे व हप्त्यांचे रकमेचे संस्थानच्या तिजोरीचे रोखे तडजोड कमिटीच्या ठरावानंतर सरकारकडून देण्यांत येतील. व सदर रोख्यांची रक्कम त्या त्या वर्षांचे रोख्यांत ठरलेल्या तारखेस तालुक्यांच्या तिजोरीतून धनकोस देण्यांत येईल. परंतु जर नेमले तारखेस धनकोने तिजोरीतून रक्कम नेली नाही तर त्या रकमेवरील सदर रोख्यांत नमूद असलेले दराने त्या तारखेपासून तो धनको रक्कम नेईपर्यंतचे व्याज त्यास मिळणार नाही. मात्र धनकोकडून तशी लेखी मागणी आल्यास सदरहु रक्कम पोस्टाचे मनीआर्डरीने धनकोच्या खर्चाने पाठविण्यास हरकत नाही.

१८ सरकारच्या या योजनेस अनुसरून दिलेल्या कर्जरोख्यास इंडियन सिक्युरिटीज अॅक्ट लागू करण्यांत आला असून सरकारने केलेल्या नियमाप्रमाणे सदर कर्जरोखे ट्रॅन्स्फर करतां येतील.

१९ ज्या ऋणकोचे देण्याबद्दल तडजोड कमिटीने ठराव करून देणे निश्चित केलेले आहे, त्या ऋणकोच्या सर्व स्थावर व अंगम मिळकतीवर जमीन महसूलानंतर सरकारचा अग्रेसरत्वाचा हक्क त्या रकमेपुरता राहिल. व तडजोडकमिटीने जी रक्कम दरसाल देण्याबद्दल ठराव केला असेल, ती सर्व रक्कम जमीन महसूल म्हणून ऋणकोकडून वसूल करण्याचा सरकारला हक्क आहे.

२० हा कायदा अमलांत येण्याचे पूर्वी औष संस्थानचे स्टेट बँकेने जर कोणा ऋणकोस यापूर्वी कर्जाक रक्कम दिलेल्या असतील, तर त्या रकमांची फेड वरील कलम १७ प्रमाणे जर सरकारनी केली तर ती रक्कम ऋणकोकडून वसूल करण्याचा सरकारला कलम १९ प्रमाणे अधिकार आहे.

२१ औष स्टेट बँकेच्या येण्याचे बाबतीत तडजोडकमिटीला फक्त सदर रकमेच्या फेडीचे हप्ते ठरवित येतील. या हप्त्यांचे रकमेवर व्याज दरसाल दरशेकडा ६ रुपयांपेक्षा जास्त दराने आकारले जाणार नाही.

भाग ३ रा.

नवीं कर्जे काढणे व पैशाचे देवघेवीसंबंधी व्यवहार.

२२ ज्या गांवास हा कायदा लागू असेल त्या गांवांतील कोणाही इसमास कांहीही रक्कम कर्जाक द्यावयाची असल्यास ती फक्त त्याला सोसायटीकडून कर्जाक देतां येईल. या खेरीज इतर कोणतीही कर्जाक

रक्कम घेण्याचा व्यवहार रद्द व गैरकायदा समजण्यांत येईल.

२३ हा कायदा ज्या गांवास लागू असेल, त्या गांवांतील पेशाचे देवघेवीचा सर्व व्यवहार सरकारचे मंजूरीने करण्यांत येईल. तसेच सोसायट्यांच्या सर्व व्यवहारांवर सरकारची देखरेख राहिल. व ज्या ऋणकोच्या ऋणासंबंधी तडजोड कमिटी ठराव करील, त्या ऋणकोचे उत्पन्न व जमाखर्च यासंबंधी सरकारभाकत सर्व हिशेब ठेवण्यांत येतील व असे. हिशेब ठेवण्यासाठीं जरूर ती माहिती सरकारने या कलमाखाली केलेल्या नियमाप्रमाणे योग्य अम्मलदारास सर्व संबंधी माणसांनी पुरविलो पाहिजे.

भाग ४ था

किरकोळ.

२४ या कायद्याच्या अम्मलवारीकरीता, तसेच या कायद्याचा अगर या कायद्याखाली केलेल्या नियमांच्या अंगाबद्दल शासने ठरविण्याकरितां सरकारला या कायद्याची विसंगत नाहीत असे नियम करण्याचा अधिकार दिलेला आहे. हे नियम गॅझेटमध्ये प्रसिद्ध झाल्याबरोबर अमलांत येतील. मात्र हे नियम प्रसिद्ध झाल्यानंतर भरणाऱ्या पहिल्या प्रातिनिधिक सभेच्या अधिवेशनांत ते सभेच्या टेबलावर ठेवण्यांत येतील व समेत बहुमताने या नियमांची ज्याप्रमाणे दुरुस्ती करण्याचे ठरेल, त्याप्रमाणे जर ते फेरफार करणेत येतील.

२५ ज्या गांवास हा कायदा लागू करण्यांत येईल, त्या गांवांतील प्रत्येक घराच्या मालकाने अगर जमिनीच्या खातेदाराने या कायद्याखाली त्याचे उत्पन्न वाढविण्याबद्दल जे नियम करण्यांत येतील त्या नियमाप्रमाणे वागले पाहिजे.

२६ कोणाहि वरिष्ठ धारणकरणारास हा कायदा ज्या गांवास लागू करण्यांत येईल, त्या गांवांतील जमिनीबाबत त्या गांवांत राहणाऱ्या कनिष्ठ धारणकरणाराकडून ज्या जमिनी त्याचेकडे लागणीस असतील त्या जमिनीचे खंडाबद्दल त्या जमिनीत ज्या सालच्या खंडाची मागणी असेल त्या साली उत्पन्न झालेल्या ऐन पिकाचे किमतीच्या निम्यापेक्षां जास्त रक्कम लँड रेव्हिन्यू कोडप्रमाणे मूलकी अधिकाऱ्यांकडून वसूल करून दिली जाणार नाही तसेच जमिनीत उत्पन्न झालेल्या ऐन पिकांच्या निम्यापेक्षां अधिक गल्लाहि सदर कलमाप्रमाणे वसूल करून दिला जाणार नाही. व या कलमाचा अम्मल करितांना वरिष्ठ धारणकरणार व कनिष्ठ धारणकरणार यांचेमधील कसल्याहि प्रकारचा करार लक्षांत घेण्यांत येणार नाही.

२७ तडजोड कमिटीपुढे अगर तपासणी कमिटीपुढे दिलेल्या कोणत्याहि फिर्यादीला अगर अर्जाला कोर्टाची माफी आहे.

२८ औष संस्थान मध्यवर्ती बँक लि. ज्या रकमा सोसायट्यांना कर्जाकडे देईल, त्या सर्व रकमा सरकारच्या हमीवरच देण्यांत येतील.

औंध संस्थानच्या ऋणविमोचनासंबंधी

कायद्याखालील नियमांचा मसुदा.

[ऋणविमोचन कमिटीने तयार केलेला.]

जाहीरनामा (कलम २ [अ] प्रमाणें.)

ज्या अर्थी औंध संस्थानच्या सन १९३६ इ. च्या कायद्याच्या कलम २ (अ) प्रमाणें ऋणविमोचनाचा कायदा कोणत्या गांवास लागू करावयाचा ते सरकारने ठरविणेचे असून ज्या अर्थी आटपाडी तालुक्यांतल मोजे गळवेवाडी व राजेवाडी या गांवांस सदर कायदा लागू करण्याबद्दल प्रातिनिधिक सभेची संमती मिळालेली आहे त्याअर्थी सरकार श्रीमंत राजेसाहेब संस्थान औंध यांचे हुकुमावरून असे जाहीर करण्यांत येतें की :-

मोजे गळवेवाडी व मोजे राजेवाडी तालुके आटपाडी या गांवांतील ऋणकोच्या ऋणविमोचनाच्या योजनेस अनुसरून ऋणविमोचनाचा कायदा व त्या कायद्याखाली यापूर्वी केलेले व यापुढे करण्यांत येणारे सर्व नियम सदर गांवांत राहणाऱ्या सर्व शेतकरी व बिनशेतकरी ऋणकोस, तसेच घरांचे मालकांस, व जमीनीचे धारणकरणाऱांस व सदर गांवांतील लोकांशी सावकारीचा व्यवहार करणाऱ्या घनकोस लागू करण्यांत आलेले आहेत, व या कायद्याचा अगर या कायद्याखाली केलेल्या नियमांचा भंग करणारा कोणीहि इसम सदर कायद्यांत अगर नियमांत सांगितल्याप्रमाणें शासनास पात्र होईल.

दिवाण, संस्थान औंध.

नियम.

कलम २ ब प्रमाणें वगळण्याबद्दल नियम.

— * —

१ जर कोणा ऋणकोस अगर घनकोस कायद्याच्या अंमलवारीतून वगळण्यांत यावे असे वाटत असेल तर कायदा लागू झाल्याचा जाहीरनामा प्रसिद्ध झाल्यामासून आठ दिवसांचे आंत त्याने तडजोड कमिटीचे अध्यक्ष यांचेकडे अर्ज केला पाहिजे.

२ ज्या कारणांकरितां स्वतःस वगळावे असे अर्जदाराचे मत असेल तीं सर्व कारणें त्याने अर्जांत नमूद केलीं पाहिजेत. तसेच त्या कारणांच्या पुष्ट्यर्थ जरूर तो पुरावा हजर केला पाहिजे.

३ अर्जदाराचा अर्ज आल्यानंतर त्या अर्जाचा विचार तडजोड कमिटी करील व अर्जदारांस आपले म्हणणे त्यांचे पुढे मांडण्याची संधि देण्यांत येईल.

४ सदर कमिटीने अर्जदाराचे म्हणणे ऐकून घेऊन, व जरूर वाटल्यास गांवांतील सर्व लोकांस त्यांचेहि कांहीं म्हणणे असल्यास तें पुढे मांडण्याची संधि देऊन, अर्जदार यास ऋणविमोचनाच्या योजनेतून वगळण्याबद्दल ठराव करावा.

मात्र सदर ठरावांत अर्जदारास ज्या कारणांकरितां वगळण्यांत आले असेल ती कारणें नमूद केलीं पाहिजेत.

५ सदर कमिटीचा निकाल कायम समजण्यांत येईल व तो निकाल संस्थानचे गॅझेटमध्ये सरकार मंजूरीनंतर प्रसिद्ध करण्यांत येईल.

६ कमिटीच्या सभासदांत मतभेद झाल्यास दोनहि सभासदांनी आपआपल्या शिफारसीचे ठराव नामदार सरन्यायाधीश यांकडे कायम निकालाकरितां पाठवावेत व ना. सरन्यायाधीश यांचा निकाल हा दरबारचा निकाल म्हणून सरकार मंजूरीने गॅझेटमध्ये प्रसिद्ध करण्यांत यावा.

७ कोणाहि अर्जदारास वगळण्याच्या अगर न वगळण्याच्या तडजोड कमिटीच्या ठरावावर अगर कमिटींत मतभेद झाल्यास ना. सरन्यायाधीश यांचे ठरावावर कोणाकडेहि अपील अगर तपासणी अर्ज चालणार नाही.

८ कोणीहि अर्जदार तडजोड कमिटीने हजर राहण्याचा हकूम केल्यास जर हजर झाला नाही तर दरबारने त्याच्या गैरहजरीत त्याच्या अर्जाचा निकाल करणेस हरकत नाही; तसेंच ना. सरन्यायाधीश यांचेकडे अखेर निकालसाठी काम गेलें असतां त्यांना कमिटीच्या समासदांच्या शिफारशीवरूनच निकाल करितां येईल, त्यांचेपुढे अर्जदार यास आपलें म्हणणें मांडण्याची संधि जर सदर अंमलदारास तसें करणें इष्ट वाटलें तरच देण्यांत येईल.

९ कमिटीचें काम संक्षिप्त पध्दतीनें चालण्याचें असून, अर्जाच्या सुनावणीची योग्य पध्दत कमिटीनें ठरवावी.

कलम ४ प्रमाणें जाहीरनामा.

ज्याअर्थी ओष संस्थानचे १९३६ च्या कायद्याच्या ४ थ्या कलमाप्रमाणें ऋणविमोचनाच्या योजनेसाठीं तडजोड कमिटी व तपासणी कमिटी सरकारनें नेमण्याची आहे.

त्याअर्थी खालीलप्रमाणें नेमणुका करण्यांत येन आहेत.

तडजोड कमिटी.

- १ ना. रा. व. दरबार मंत्री.
- २ रा. सा. न्यायाधीश, आटपाडी.
- ३ रा. सा. मामलेदार ता. आटपाडी.

सदर तडजोड कमिटी आटपाडी तालुक्यांतील गांवापुरतीच असून दुसऱ्या कोणत्याहि तालुक्यांतील गांवाकरितां ना. रा. व. दरबार मंत्री व त्या त्या तालुक्याचे मामलेदार व त्या तालुक्याचे न्यायाधीश यांची कमिटी नेमण्यांत येईल.

तपासणीकमिटी.

- १ नामदार रा. व. सरन्यायाधीश.
- २ ना. रा. व. दिवाण.

ही तपासणी कमिटी संस्थानांतील सर्व गांवाकरितां नेमलेली आहे

तडजोड कमिटीचे नियम.

१ कोणत्याही गांवाला हा कायदा लागू झाल्यानंतर एक महिन्याचे आंत स्थानिक अंमलदारांनीं गांवांतील सर्व ऋणको व घनको यांची यादी, तसेंच त्यांची देणें व घेणें रक्कम. याबद्दल कमिटीकडे रिपोर्ट करावा.

२ हा रिपोर्ट तसेंच ही माहिती खाजगी व गुप्त समजण्यांत येईल व त्याच्या नकला कोणासही देण्यांत येणार नाहीत.

३ तडजोड कमिटीनें करावयाची चौकशी गांवांतच ज्यात्या करावयास पाहिजे.

४ सिव्हिल प्रो. कोडमध्ये आरबिट्रेटरनीं जी कार्य करण्याची पद्धति दिलेली आहे त्या पद्धतीनेंच शक्यतोवर तडजोड कमिटीनें काम करावें.

५ ऋणको व घनको यांना आपलें म्हणणें कमिटीपुढे मांडण्याची योग्य संधि देऊनच मग तडजोड कमिटीनें योग्य कारणें देऊन आपला निकाल जाहीर करावा.

६ तडजोड कमिटीनें आपल्यापुढे येणाऱ्या कामांचे रजिष्टर ठेवले पाहिजे व त्या रजिष्टर-रांत घनको व ऋणको यांचें म्हणणें, त्यांचा पुरावा व कमिटीचा निकाल नमूद केला पाहिजे. साधारणपणें रजिष्टर खालील पद्धतीचें असावें.

१ अनुक्रम नंबर.

२ घनकोचें नांव व पत्ता.

- ३ ऋणकोचे नांव व पत्ता
- ४ स्थानिक अंमलदारांचा एकंदर देण्याबद्दल रिपोर्टाचा सारांश.
- ५ घनकोच्या म्हणण्याचा सारांश.
- ६ ऋणकोच्या म्हणण्याचा सारांश.
- ७ घनकोच्या पुराव्याचा सारांश.
- ८ ऋणकोच्या पुराव्याचा सारांश.
- ९ कमिटीचा निकाल व कारणे.
- १० तपासणी कमिटीचा निकाल व कारणे.
- ११ पैसे ऋणकोकडून वसूल करण्याची योजना.
- १२ पैसे वसूल करण्याच्या योजनेवरील वार्षिक रिपोर्ट.
- १३ इतर.

७ तडजोड कमिटीचे काम संक्षिप्त पद्धतीने चालविण्याचे असून कमिटीपुढे आलेला पुरावा सविस्तर न लिहून घेता त्याचा सारांश वरील रजिष्ट्रांत लिहून आपला ठरावहि रजिष्ट्रांतच नमूद करावा.

८ घनको व ऋणको यांनीच तडजोड केल्यास कलम ९ मध्ये तडजोडीच्या अटी लिहून त्याखाली दोघांची सही घेऊन तडजोड कमिटीने आपली संमति नमूद करावी.

९ ऋणको अगर घनको हजर न झाल्यास कलम ५ अगर ६ मध्ये ही गोष्ट नमूद करून त्यांना हजर करण्याबद्दल कमिटीने काय तजवीज केली तें नमूद करावें.

१० दिवाणी कोर्टाकडून आलेल्या दाव्याचे बाबतीत कलम १३ मध्ये दि. मु. नंबर लिहावा व काम कमिटीकडे दाखल झाल्याची तारीख लिहावी.

११ तडजोड कमिटीने ठराव केल्यानंतर तिने घनकोस किती रकमेचे व कोणत्या सालाचे कर्जरोखे द्यावयाचे त्याचा रिपोर्ट सरकारकडे लागलीच केला पाहिजे.

१२ सोसायटीच्या ऋणकोकडून जी येणे रक्कम असेल त्याचा निकालहि तडजोड कमिटीने करून त्याची रजिष्ट्रांत नोंद ठेवावी.

कलम १८ प्रमाणे नियम.

हे नियम Government securities बद्दल ब्रिटिश सरकारने केलेल्या नियमाप्रमाणे असतील.

कलम २४ प्रमाणे केलेले नियम.

१ गांवांतील कोणाहि इसमास कर्ज काढावयाचे असल्यास त्याने कर्ज काढण्यापूर्वी नामदार दरबारमंत्री यांकडे अर्ज करून त्यांची मंजूरी मिळविली पाहिजे.

२ सदर अर्जात अर्जदाराने खालील गोष्टी नमूद केल्या पाहिजेत.

- १ अर्जदाराचे नांव.
- २ कुटुंबातील माणसांची नावे व नाते.
- ३ एकंदर कुटुंबाच्या जमिनीचे क्षेत्र व आकार.
- ४ एकंदर कर्ज व तडजोड कमिटीने केलेली कर्जाची व्यवस्था.
- ५ तडजोड कमिटीच्या ठरावाप्रमाणे हप्ते फेडण्याची अर्जदाराने अर्जाच्या तारखेपर्यंत केलेली तजवीज.
- ६ आपले उत्पन्न वाढविण्यासाठी केलेली तजवीज.
- ७ ऋणविमोचनाच्या पूर्वीचि सालिना उत्पन्न व अर्जाचे सालापूर्वीच्या वर्षी झालेले सालिना उत्पन्न.
- ८ कर्ज कोणत्या कारणाकरिता काढावयाचे.
- ९ कर्जाच्या अटी-ज्याजाचा दर.
- १० सावकाराचे नांव व त्याची कबुली.
- ११ हे कर्ज कसे फेडण्याचा अर्जदाराचा विचार आहे.

३ या अर्जावर ना. दरबारमंत्री यांनी केलेला ठराव कायम समजण्यांत येईल व त्यावर कोणाकडेहि अपील अगर तपासणी अर्ज चालणार नाही.

४ जर अर्ज मंजूर झाला तर ना. दरबारमंत्री हुकुम करतील त्या अटीवरच कर्ज काढण्यांत येईल.

५ सोसायटीकडून कर्ज काढावयाचें असल्यासहि वरील प्रकारचा अर्ज ऋणकोर्ने केला पाहिजे. मात्र तो सोसायटीच्या मार्फत पाठवावा.

६ कर्ज काढण्यास मंजूरी मिळाली तर तें कर्ज फेडण्याच्या योजनेबद्दल जो दरबारमंत्री यांचा हुकुम असेल तो हुकुम अर्जदारानें पाळला पाहिजे.

७ कोणतेही कर्ज फेडण्याचे कामी ना दरबारमंत्री यांचा हुकुम होईल त्याप्रमाणें कोणाहि ऋणकोर्ने वागलें पाहिजे, व दरबारांतून नेमलेल्या अंमलदारांस वारंवार लागेल ती माहिती पुरविली पाहिजे.

८ कोणाहि ऋणकोर्ने दरबारांस आपलें कर्ज व आपलें उत्पन्न यांजबद्दल पुरवलेली माहिती साजगी समजली जाईल.

९ कोणाहि ऋणकोर्ने आपल्या जमिनींतील पीक अगर ऋणविमोचनाच्या योजनेप्रमाणें उत्पन्न वाढविण्याच्या हेतूनें सुरू केलेल्या कोणत्याही धंद्यांतील पैदास यांची स्वतंत्रपणें विल्हेवाट न करितां ती सोसायटीमार्फत केली पाहिजे.

१० कोणाहि ऋणकोर्ने आपल्या शेतकी अगर बिनशेतकी उत्पन्नाचा सर्व हिशेब सोसायटीस अगर सरकारांतून नेमलेल्या अंमलदारास दिला पाहिजे व स्वतःच्या कुटुंबाच्या उपजीविकेस पुरेसें उत्पन्न सोसायटीच्या अगर अंमलदाराच्या संमतीनें ठेवून बाकीच्या उत्पन्नाची विल्हेवाट त्यांच्या हुकुमाप्रमाणें केली पाहिजे.

११ कोणाहि ऋणकोर्ने अगर त्याचे कुटुंबांतील सर्व लोक अगर कोणाहि ऋणकोशी व्यवहार करणारे सर्व लोक यांना हे नियम लागू असून या नियमांचा कोणाहि कसलाहि भंग केल्यास तो प्रत्येक भंगाबद्दल १०० रु. पर्यंत दंडाला पात्र राहिल.

१२ सदरहूप्रमाणें दंडाचा हुकुम करण्याचा अधिकार कलम २५ प्रमाणें केलेल्या नियमांत ठरविलेल्या अंमलदारास असून, त्या नियमांना अनुसरूनच असा हुकुम करितां येईल.

कलम २४ व २५ खालील नियम.

१ या कायद्याच्या अंमलवारीसाठीं जरूर ते नियम करण्याचा अगर केलेल्या नियमांत दुरुस्ती करण्याचा अधिकार सरकारचा आहे.

२ सदरप्रमाणें नवीन नियम करण्याचे अगर नियमांत दुरुस्ती करण्याचे कामीं सरकारला सल्ला देणेंसाठीं खालीलप्रमाणें कायम कमिटी नेमण्यांत यावी.

- | | | | |
|---|-----|---------|--------------------------------|
| १ | ना. | रा. ब. | सरन्यायाधीश. |
| २ | ना | " | दिवाण. |
| ३ | ना | " | दरबार मंत्री. |
| ४ | ना. | रा. सा. | जिल्हा न्यायाधीश. |
| ५ | ना. | | प्रतिनिधिक सभेचा एक प्रतिनिधि. |

सदर कमिटीचे नवीन नियम करण्याचे कामीं सल्ला घेऊन मगच सदर नियम कायम करून प्रसिद्ध करण्यांत येतील.

३ सरकारच्या गॅझेटमध्ये या कायद्याखाली प्रसिद्ध झालेल्या कोणत्याही नियमाचा अगर मूळ कायद्याचा कोणाही इसमानें भंग केल्याचें आढळून आल्यास तो रु. १०० पर्यंत दंडास पात्र होईल.

४ अशा तऱ्हेचा भंग स्थानिक अधिकाऱ्यांच्या निदर्शनास येतांच त्याबद्दल त्यांनीं चार दिवसांचे आंत ना. दरबारमंत्री यांचेकडे रिपोर्ट केला पाहिजे.

५ ना. दरबारमंत्री यांचेकडे रिपोर्ट आल्यावर त्यांनीं सरकार मंजूरीनें रा. सा. दि. मा. सं. अंश यांचेकडे सदर काम चौकशीसाठीं पाठवावें. व ज्यानें नियम भंग केला असेल त्याला

आपलें म्हणणें पुढें मांडण्याची योग्य संधि देऊन वर नियम ३ मध्ये सांगितल्याप्रमाणें रा. सा. दि. मॅजिस्ट्रेट यांना त्यांस योग्य तें शासन करण्याचा अधिकार आहे.

६ दि. मा. यांनी दंड करण्यापूर्वी जी चवकशी करावयाची ती समरी पद्धतीनें करावयाची असून क्रि. प्रो. कोडप्रमाणें समरी ट्रायलची पद्धति शक्यतोवर त्यांनी अवलंबिली पाहिजे.

७ दि. मा. यांच्या दंडाच्या हुकुमावर फक्त एकच तपासणी अर्ज ना. सरन्यायाधीश यांचेकडे करितां येईल व अधिकारातिक्रम अगर उघड अन्याय झाला असेल तरच ना. सरन्यायाधीश यांना तो हुकूम फिरवितां येईल.

कलम २६ प्रमाणें नियम.

८ ज्या गांवाला हा कायदा लागू केला असेल त्या गांवांतील प्रत्येक ऋणकोवर अगर जमिनीच्या धारण करणारावर हे नियम बंधनकारक राहतील.

९ कोणाहि ऋणकोची ऋणमुक्तता या कायद्याप्रमाणें जर केली असेल व त्यानें जर या नियमांप्रमाणें वागण्यांत कसूर केल्याचें आढळून आलें तर, दरबारच्या हुकुमानें त्याचेकरितां सरकार भरत असलेल्या हप्त्याची फेड उत्पन्नांतून होईल इतकी स्थावर मिळकत सरकारांत हप्त्याची फेड होईपर्यंत घेतली जाईल.

१० सरकारांत घेतलेली मिळकत कोणत्याहि वर्षाचा हप्ता भागविण्यास अपुरी वाटल्यास दरबारचे हुकुमानें इतर स्थावर व जंगम मिळकत सरकारांत घेतां येईल. व ती सर्व कर्जाची फेड होईपर्यंत परत देण्यांत येणार नाही.

११ प्रत्येक ऋणकोनें ना. दरबारमंत्री ठरवतील त्या सोसायटीचें मॅबर झाले पाहिजे व त्या सोसायटीच्या नियमांप्रमाणें वागलें पाहिजे.

१२ प्रत्येक ऋणकोनें २० ते २५ कोंबड्या प्रथमतः पाळल्या पाहिजेत व त्यांची जोपासना वेळोवेळीं हुकूम होईल त्याप्रमाणें केली पाहिजे.

१३ कोंबड्यांच्या सोसायटीचें सर्व ऋणकोनीं सभासद झाले पाहिजे व कोंबड्या व त्यांचीं अंडी सोसायटीमार्फतच विकलीं पाहिजेत.

१४ दरबारमंत्री यांचा हुकूम होईल तीं झाडें वेळोवेळीं सर्व ऋणकोनीं झाडिलीं पाहिजेत व त्या झाडांचीं पानें, फळें व रस बगैरेंची विल्हेवाट त्या कामाकरितां काढलेल्या सोसायटीमार्फतच केली पाहिजे.

१५ प्रत्येक ऋणकोनें आपल्या शेतांतील पिकांची जोपासना सरकारचे त्याबाबतचे अधिकारी ज्या सूचना करतील त्याप्रमाणें केली पाहिजे.

१६ गांवांतील कोणाहि जमिनीच्या धारणकरणारानें आपले जमिनीत जें बीं पेरवयाचें तें ग्रामसभेच्याबतीनें घेतलें पाहिजे. याखेरीज दुसरें बीं पेरण्याची मनाई आहे.

१७ गांवांतील कसलेही तंटेबखेडे गांवपंचामार्फत अगर समितीमार्फत निवाडा करण्यास सोंपविले पाहिजेत.

१८ लग्नकार्य, जन्म, मयताचें उत्तरकार्य यांचेकरितां ग्रामपंचायत ठरवील तितकीच रकम खर्च केली पाहिजे व खर्चाचे हिशेब ग्रामपंचायतीतील कार्य झाल्यापासून एक महिन्याचेअंत दिले पाहिजेत.

१९ ज्या गांवाला ही योजना लागू होईल त्या गांवांत ग्रामसभा स्थापन झाली पाहिजे.

औद्योगिक संस्थान ऋणविमोचन कमिटीने ऋणविमोचन विलासंबंधी तयार केलेले मधुघावरील संस्थान बाहेरील तज्ञांनी केलेले सुचनांवा कलमवार गोषवारा

भाग १६

कलम २ (ख)

(१) श्रीमंत सरदार किवे:- जाचक वाटते त्याचा समावेश केल्यांतर कलम १० (अ) चे प्रयोजन लक्षांत येत नाही.

(२) जॉइंट फॅमिली संबंधी व्यवस्था

रा.रा. ज.स. करंदीकर:- परंतु काही सध्यातील लोक जवळच्या बिटीस मुल्लातील सावकारांची क्वे काढित असतील त्यांचीही व्यवस्था पाहिजे.

कलम २ (क)

श्रीमंत सरदार किवे:- व्याप्ती वाढवावी व परगांवातून त्या गांवात राहण्यास जाणाऱ्या व्यक्तीपुरती न ठेविता सर्वाकरिता ठेवावी.

श्री. रा.रा. ज.स. करंदीकर:- कोणास कायदा लागू करावयाचा नाही ते कोणत्या तत्वावर ठरविणार ती तत्वे नमूद करावीत.

रा.रा. वैकुंठराय मेहता:- कोणासही वगळूनये.

कलम २ (ड) ना. वझे:- कोणाही ऋणकोस आम्मलवारीतून वगळूनये.

रा.रा. वैकुंठराय मेहता:- सदरप्रमाणे.

पि. क्वे:- वगळणे योग्य नाही. मुक्तता दिली पाहिजे.

डॉ. धनंजयराव गाडगीळ:- वगळणे इष्ट नाही. नादार ठरवून घटक मुक्त करावे.

कलम ४ (१) (५)

रा.रा. वैकुंठराय मेहता:- "बँक व सहकारी संस्था या शिरीज

या शब्दयोजनांनी तडपोडकमिटीचे नियम १२ हे त्रिसंगत आहेत.

पि. क्वे:- व्याख्येबद्दल - "अप्रॉप्री लेटलार्ड" चा समावेश होऊनये

(भाग २ कलम १० अ पहा)

डॉ. धनंजयराव गाडगीळ:- शेतकरी व्याख्येची गरज नाही कारण तो सर्वांनाच लागू आहे. यांत संडकरी याचा समावेश होत नाही

कलम ५ पि. क्वे:- बँका व सहकारी संस्था यांस हा कायदा लागू करावा

कलम ९ ब

ना. वझे:- दिवाणी कोर्टचे हुकूमनाम्यांत सुध्दां पुरंगविलेखी फरक करण्याचा आधिकार असावा.

डॉ. धनंजयराव गाडगीळ:- दिवाणी कोर्टचे हुकूमनाम्यांत सुध्दा फरक करण्याचा आधिकार असावा.

कलम १० (अ)

डॉ. धनंजयराव गाडगीळ:- लहान तुकडी धारण करणाऱ्याचे इतर ठिकाण पवे मिळवती बाबतचे अगर लहान व्यवहाराचे कर्जाबाबतचे दावे होऊ शकणार नाहीत असा अर्थ होतो. सुलगाभा जरूर आहे.

कलम १० (ब)

रावब. अंजनगांवकर:- तडजोड-कमिटी-अगर-तपासणी-कमिटीपुढे

वकीलांना बंदी नसावी.

रावब. अंजनगांवकर:- दिवाणी कोर्टचे हुकूमनामे घाले असलेखरी विशेष पुरंगी व्याज कमी देववावे.

कलम १४

रावब. अंजनगांवकर:- तडजोडकमिटी अगर तपासणी कमिटीपुढे वकीलांना बंदी नसावी. फारतर दोघेही सुशिक्षित असल्यास बंदी ठेवावी.

फि. कर्जे:- वकीलांना बंदी नसावी.

कलम १७

रा.रा. वैकुंठराय मेडता:- सरकारी रीत्यांचा व्याजाचा दर नमूद करावा.

कलम २२

फि. कर्जे:- इतर भावकारांकडून कर्ज काढणे गुन्हा होऊ शकत नाही. सबब ते अमान्य करण्ये.

कलम २३

फि. कर्जे:- कसको लोकांजवळ एक भाहिती पत्रकाची पत्र ठेवावी.

डॉ. धनंजयराव गाडगीळ:- कुल्लक आर्थिक व्यवहार सुध्दा सरकारी मंजूरीशिवाय होणार नाहीत या बाबत नियमांत फोड करून नियंत्रण करण्याचे व्यवहार कोपते हे दर्शविले पाहिजे.

कलम २५

श्री. केळकर:- त्यांच्या सांपत्तिक स्थितीचा विचार करावयास पाहिजे.

डा. धनंजयराव गाडगीळ:- कर्ज काढून तूट आली तर त्यास जबाबदार कोण? यातून खेडकरांसारखे भ्रष्टाचार नुसतेच त्यांच्या सामवेताने

कलम २६

डॉ. धनंजयराव गाडगीळ:- हेच तत्व जुन्या हुकूमनाम्यासही लाविले पाहिजे

नियम

तडजोड कमिटी

श्री. सरदार किंबे:- सभासद ^{In C.P.} सरकारी, बाकी बिनसरकारी, अगर बिनसरकारी घेण्यास सवड असावी.

रा.रा. ज.स. करंदीकर:- लोकांपैकी त्रयस्थ गृहस्थाची नेमणूक यांत झाली पाहिजे. सर्वच बिनसरकारी चांगले, पण तूर्त कांहीं सरकारी.

रावब. अंजनगांवकर:- स्वतंत्र व गावच्या पूर्ण माहितीचा इत्तम असावा स्थानिक आधिकारी स्पेसीफाय करावा.

रावब. अंजनगांवकर:- ^{मध्यम} यांची यादी ^{या शब्दाने} गांवांत रीतसर जाहीरनामा करून तयार करावी."

पि. कर्वे:- एकदोन सभासद लोकनियुक्त प्रतिनिधि घ्यावेत.

डॉ. धनंजयराव गाडगीळ:- नियम १ " पुत्येक धनकोस रीतसर नोटीस देऊन मग रिपोर्ट करावा.

कलम २४ मालील (१)

डॉ. धनंजयराव गाडगीळ:- दर कर्जास दरबार मंत्र्यांची संमती घेणे गैरसोयीचे. अमुक रकमे पावेतो आधिकार स्थानिक आधिकाऱ्यास घावेत.

कलम २४ नियम ४

रा.रा. ज.स. करंदीकर:- लग्न, मर्तिक वगैरेसाठी कर्जे लागतात त्यांचीही व्यवस्था करणे जरूर आहे. नाहीतर साधे व्यवहार बंद होतील.

कलम २४ नियम १०

पि. कर्वे:- उपजीविकेस पुरेसे (विवादित मुद्दा) ठरविणार कोण? ते वजा केल्यास कांहीं उरणार नाही. मग कायद्याची अम्मलबजवणी कशी करणार?

कलम २४ व २५ मालील नियम

रा.रा. व.स. करंदीकर:- कलम २४ प्रमाणे क्वाविर नियंत्रण आहे ते चांगले पण बाहेरच्या कर्जदाराकडूनही कर्ज न काढतील अशी व्यवस्था करावयात पाहिजे. शेतकऱ्यांस लगेच मर्तिक वगैरेसाठी कर्जे लागतात त्याचीही व्यवस्था करणे जरूर आहे. नाही तर माधे व्यवहार बंद होतील.

रा.रा. वैकुण्ठराय मेहता:- कलम २४ नियमापेक्षा पंजाबातील सावकारांचे नियंत्रणाचे कायदाप्रमाणे नवीन कायदा करणे.

रावब. अंजनगांवकर:- २४ व २५ मालील नियमांत स्थानिक आधिकारी निर्दिष्ट करावेत.

पि. कर्वे:- नियम काटेकोर आहेत. त्या भेरीज अनेक मागणी कर्जे काढावी लागतील. ते नियमन करावे. मना करूये. सर्व व्यवहार सरकारनिष्ठ झाल्याने बंधन उत्पन्न होत आहे. त्याचा विचार करावा. या दोन गांवाला क्फायतशीर शेतती आहे कां? मग जरूरी काय?

कलम २६ नियम १० व ९

पि. कर्वे:- जप्तीचे वेळी त्याचे पोटास पुरेल इतकी मिळकत जप्त न होणेची व्यवस्था झाली पाहिजे.

नियम ११

रा.रा. वैकुण्ठराय मेहता:- निरनिराळ्या सोसायट्यापेक्षां निरनिराळी कामे करणारी एकत्र सोसायटी आतापी.

रा.रा. केळकर:- नियम ११ ते १४ सक्ती करणे क्फितपत इष्ट आहे ते पहावे व केळी तर त्यातील नुकसान भरपाईची हमी सरकारने घेतली पाहिजे.

सोसायट्या कोणत्या? सनासद क्फाकरिता उल्लेख पाहिजे.

नियम १२

रावब. अंजनगांवकर:- सक्तीसक्यता पाहिली पाहिजे. व मांजवल पुरविणेची योजना झाली पाहिजे.

रा.रा. केळकर:- कौबडी पाळणे ऐच्छीक ठेवावे

पि. कर्वे:- कौबडी पाळणे सर्वांस तारतम्य बंधनकारक आहे काय? व ते क्फिफायतशीर आहे वाजबद्दल मात्री आहे काय?

नियम १४ रावब. अंजनगांवकर:-^(३) झाडे लाविणे यांत पाण्याची सोय आहे की नाही

१. तै. पाहणे व शेतीच्या कामाची हेळसांड न होऊ देणे
रा.रा. केळकर :- त्यावरील नालकीचा फ्रॅन सुलासा करावा. मात्र
तोडण्याचे वेळी मुक्तीची अगर दुसरी काळे लाविणेची अट असावी.

नविन सूचना

रा.रा. वैकुंठरांय मेहता

- १ अ. हातागे भूत कातणे व विणणे यांचा समावेश व्हावा.
ब. एकत्र शेतकी अगर सहकारी लागवड.

रावब. अंजनावांकर

२. भाग २ कलम ३९ मध्ये कर्जाची रक्कम शेतकऱ्याकडून किती मुक्तीत
(निदान २० वर्षे) वसूल करणेची तै. नमूद करावे

रा.रा. केळकर

३. गुराची अजलाद सुधारणेची व्यवस्था. सामुदायक शेती, दूध-दुमते
माल विक्री, ग्राम धंदे, या संबंधी संस्थांची योजना झाली पाहिजे.

... .. या जेणे
 असा

(3) अनुसूची -

भाग २ क. १८ - लष्करी

भाग २ क. १७ - सावकारांच्या

भाग २ क. १८ - कजरी

... कायदेचीर :-

~~...~~ ... कायदेचीर ...

... कायदेचीर ...

... कायदेचीर ...

... कायदेचीर ...

... कायदेचीर ...

... कायदेचीर ...

... कायदेचीर ...

... कायदेचीर ...

... कायदेचीर ...

... कायदेचीर ...

... कायदेचीर ...

(3) अनुच्छेद विचार -

भाग 2 क 15 - लडाखीने ...

भाग 2 क 16 - सावकारांच्या ...

भाग 2 क 17 - कजरिने ...

भाग 2 क 18 - कजरिने ...

विशाली है वगैरे
 48 नगरी, नगर
 नर नर नर नर
 1-1-12 नर नर

काम (2) (क) दिवनी को रनि जुगने दिने व व्यवहार जसदी हुन

प्रायः हीं नव रनि रास नरने, एण यान्त पुं कहीने याने
 परिणाम होयाना संभव नाहे. आज काम या फल (कहेने गेकेकन वागू होन
 आहे. एण (कहेने व फलित ते इतर दिवनी वागू होणार असे
 नरि यानको आज वागू. जुगनेने दिवनी यान्त नरनि व वागूनी व नरने
 इतने एणने काम या हुगदी के वागू हो होयाने नरि यानने करे हुन
 नरि यान करे व्यवहार नरि यानने वसे वहाक याने. संस्थां नदी व परि (दिने ही) नदी
 कोयार मळे दिने नदी हे वागूने येव नाहे. एण यं एण नरने व वागू
 नर पुं नरि यानने. याने पुं काम या एण होयाने पुं जुगनेना नरि यानने
 व्यवहार दिव व फल (कहे नरि यानने पुं नदी वागू याने व वागूने व वागूने
 व वागूने जसे वरु.

काम 90 (अ) या कं नदी व नदी व नदी 2 भाग या यं नदी जमीन वरुण
 नरि यानने हे वागू वागू व वागू व वागू. व वागू व वागू व वागू व वागू
 जमीन व वागू व वागू व वागू व वागू व वागू व वागू व वागू व वागू
 जुगनेने वागू व वागू व वागू व वागू व वागू व वागू व वागू व वागू

(3) अनुकूल विचार -

भाग 2 क 95 - लक्षादीने उरुगारी नदी रकु विद्य
 विद्यवाची सरकारने ही घेनारी आहे ही नदी घेनारी नदी असे
 पणारी आहे. सरकारी ही नदी रकु ही नदी व वागूने मावनी
 ही नदी. सर्व संस्थानां व वागूने नदी व वागूने मावनी
 विद्य ही घेनारी वागूने व वागूने पूर्ण विचार व वागूने नदी व वागूने
 मावनी व वागूने मावनी वागूने करावा.

भाग 2 क 96 - सावकारांच्या रकुने सरकारी नदी व वागूने
 ती विजारीच्या रकुने सरकारने करावयाची नदी व वागूने नदी व वागूने
 ती व वागूने नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने
 रकुने नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने
 वागूने नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने
 नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने
 सरकारी नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने
 नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने

भाग 2 क 97 - कृषि विद्य वागूने नदी व वागूने नदी व वागूने नदी व वागूने
 व वागूने नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने नदी व वागूने

...
 ...
 ...

कवम. 23. ...
 ...
 ...

अरे ...
 ...

...
 ...
 ...

कवम 28 = ...
 ...
 ...

कवम 29. ...
 ...
 ...

(3) अनुच्छेद विचार -

भाग 2 क. 14 - ...
 ...
 ...

भाग 2 क. 15 - ...
 ...
 ...

भाग 2 क. 16 - ...
 ...
 ...

वाणी करके उसे काममें भव जाड़े. ~~कुछ~~ या कहें तो जुने सर्व करार
 वसूली का कुछ दोनव्यामी ¹⁵⁵ देखायी एक ~~काम~~ काम पावता ठरावीकी
 जोह. याच प्रमाणों सर्व प्रकारच्या देखावाका (जुने दिनामी दुजुनापा अथवा),
 जहायमास पाहेजे. सावकारास व जमीनदा ~~करार~~ जाहेच्या उपजांतून ~~देखे~~
^{जाहे} देतां येईव ~~जाहे~~ असे दिखिली जातक परमिदा प्रत्येक
 येवच्या वाक्या ठरून (196मांत याचें सर्व प्रकारचें देजे - कलेक उरली)
 येवच्या तड जोड जाहेरीने वरावयाज्य (नी). यंजातांत येवच्याची जमीन
 रावकारास जमीन भिवत नही. गहाण नसके तरी क मज्जा कमाव नीक क र्हे पावेलां
 भिडतो. जाणे मज्जा क मज्जा दिवाळा तरी क मज्जा क मज्जा कुडु काची फेपवाची
 येवच्या त्या जाहेरीने उपजांतून जाहेरी करानी लागते. हेच तत्व सर्व जाहेरास
 त तीला आपवेकडे वलने पाहिले. ~~ए~~ प्रत्येकाची ^{देखायी} हेच ठरवून क मज्जा.
 यो-यु वलने दे ~~कुडु~~ शकतां येईव ही खम मज्जा देखायी ~~क~~ कामक मज्जा.
 याचे आंव तड जोडीची खम वादी तर ~~क~~ तिना उपजांतून, नाहीतर नही. आपो
 या देखावत जुने दुजुनाकागे वगैरे सर्व जाळे ~~क~~ पाहेतेत. व आठव्यापुन्हा
 देखाव्या हे पलीकडे ^{कुडु व} ~~कुडु~~ अथवा वसुला उपजांतून होईव.

(3) अनुशुचि विचार -

भाग 2 क 9C - लज्जाडीनें उरगारी कजिती रकू मिय
 निड्याली सरकारनें हमी येनारी उरहे ही क मज्जा मज्जा मज्जा
 पयरी आहे. सरकारी हमी मुळे रकू म ही क मज्जा येव्यास भावनी
 होलीक. सर्व संस्थानां मर वायदा जारी वराव्याच्या साठ्यास
 किली हमी द्यावी लागेल त्यास पूर्ण विचार वरून मज्जा क मज्जा
 जाधिक येव्यास कायदा लागू करावा.

भाग 2 क 9D - सावकारांच्या रकमची सरकारनें ~~क~~ कर
 ती तिजारीच्या शेखांच्या स्वरुपात करावयाची नी सबळ
 ती मज्जा आहे. क मज्जा मज्जा मज्जा सरकारला लाव्याक सर्व
 रकमची ~~क~~ मज्जा मुळे जमर हात नाही, व सरकारनें सावकार
 याव्याचे हमे आणि मज्जा क मज्जा सरकारकडे येवारी वसुली
 लंड भिवनी ही सुकर होत. तरी ही येव्याची सर्व आमी
 सरकार मसल्यानें तिजारीच्या शेखांच्या स्वरुपांत सरकार
 मज्जा क मज्जा क मज्जा येव्याचे मज्जा क मज्जा पाहिले.

भाग 2 क 9E - कजितीनें सावकारांच्या रकमचे
 य वेळे आहे. पुढें मज्जा नंका 4 मज्जा शेखांच्या मज्जा मज्जा

नियमांकद्वय तैय्येव किंदा नम्यात नये. (पर्याय क्लेश किंदा किंते -

तऽनेन कानि नियम १ यांत स्थानिक अधिकार्यांनी त्रुणकोच्या देणे

रकमा शब्दद्वय किंते किंदा अशी व्यवस्था आहे. माझे मत ही गणेश सर्व
व्यक्तींय मोटेस देऊन त्यांम ~~आपल्या~~ येणे रकमांकद्वय अदी

गुदर (वयाज सो गून न्गराव): कांही यतणे स्थानिक नवरीच, तसेच अंगदवापरा
दुसरे शूद गादिनी किंतेचम असे नाही. गेहे ही नवरीचरी स्थानिक अंगदवापरा
न २१कां यतणे तरेन टाकण्याने तकारीक काय ३२ गा (२१८) १ गादिनी स्थान
३१३०५ टाईट.

काद १२४ रकदीव नियम (३) दर कमीत गा. ५२५१२ गेहेनी गेहेनी अकर ५१
शेज्यामास कोन केवळ गेहे लये टाक्याचा कंश्र असे. अगादी उदाहरणाने
अवटाले रुकुं सारकारी गेहेनी ^{कय्यां} गेहेनी रकमां नालीत. त्या रकमे अगुन
रकमे पालेनी अधिकारी स्थानिक अधिकार्यांय थावेत.

(३) अनुकूल विचार -

भाग २ क. १८ - लक्षादीनें सरकारी कर्मची रकमे किंते
किंतेच्या सरकारनें हानी येनाती आहे, ही कल्पनाचिनाकरता असे
पयरी आहे. सरकारी हानीमुळे रकमे ही कमी येण्यास भावना
हीचीच. सर्व संस्थानांमर कायदा जारी कराव्याचा सादर
किती हानी घावी लागेल त्याला पूर्ण विचार करून कल्पना
नाधिक खेळ्यास कायदा लागू करावा.

भाग २ क. १७ - सावकारांच्या रकमेची सरकारनें फेड करू
ती तिजारीच्या शेर्यांच्या स्वरुपात करावयाची नी सवळत
ती मध्य आहे. कल्पनाचिनाकरतां सरकारला लाग्याच सर्व
रकमे ही मध्येमुळे उत्तर रहात नाही, न सरकारनें सावकार
घावल्याने हने आणि गुणकोकडून सरकारकडे येणारी वस्तु
तेडे किंतेची हानी सुकर होते. तरी ही योजनेची सर्व आणी
सरकार मसल्याने तिजारीच्या शेर्यांच्या स्वरुपांत सरकार
कराव्याच करून कर्ज येतडे असेच म्हटले पाहिजे.

भाग २ क. १८ - कर्मिचे सावकारांचे रकमे
य वेडे आहे. पुढे मजे नंवा ५ १३३३ शेर्यांच्या रकमे हांतवि

रकमे
असे
चल
किंते
अगुन
भाय
दुसरे
मलाथ
हानी
दुसरी
५

(1) शेतकऱ्यांच्या कर्जांचे निवारण करण्याकरिता संस्थान सरकारने स्मरणाची योजना तयार करण्यांत आली आहे. व धडाडी येऊ नये ही खांबद संस्थानचे अभिप्रेत आहे. कोणत्याही योजनेत कांही दोष हे राहिले तरी परंतु बहुतेक कांही ना कांही कारणे आनिवारी असतात. शेतकऱ्यांच्या कर्जावसायीपणा हे संस्थानावर एक मोठेच संकट आहे व त्या शक्यता करण्यास जनता व सरकार यांचे पूर्ण साहाय्य घ्यावे ही अपेक्षा जगावी व कायद्याच्या अंतर्गत बजावणींतही शेतकऱ्यांवर कायद्याने उद्दिष्ट नसते असे साहाय्य घ्यावे नाही.

(2) कायद्याचा प्रसूत नसून पाहतां त्यांतून कितीच कायदा कितीच विचार सुचतात. नवी प्रत्येक भंगर सुवात पाहजे म्हणून कांही भंग सुचते तर इतरांमध्ये अनुकूल प्रति अंदाजाने विचार सुचणे शक्य आहे. हा तीन स्तरांच्या निष्कर्षांमध्ये उद्भव करील आहे.

(3) अनुकूल विचार -

भाग २ क. १८ - लक्षादीने शेतकरी कर्जांची रक्कम कितीची सरकारने ठरवी घेतली आहे ही मर्यादा घालण्याची पध्दती आहे. सरकारी हर्षांमुळे रक्कम ही काही वेळास भावना होतील. सर्व संस्थानांवर कायदा जारी करावयाचा साहाय्य किती ही घ्यावी लागेल त्याचा पूर्ण विचार करून मर्यादा अधिक वेळास कायदा लागू करावा.

भाग २ क. १७ - सावकारांच्या रकमेची सरकारने ठरविली ती तिजारीच्या शेतकऱ्यांच्या स्वरुपात करावयाची ही संकलितली येथे आहे. मर्यादा घालण्याकरिता सरकारला लागू आहे सर्व शेतकऱ्यांची ही मर्यादा ठरविते उच्च राहात नाही, न सरकारने सावकारांच्या हर्षां आणि मर्यादा घालून सरकारकडे येणारी रक्कम जेवढे मिळवणी होई सुकर होई. तरी ही योजनेची सर्व आर्थिक साहाय्य नसल्याने तिजारीच्या शेतकऱ्यांच्या स्वरुपात सरकारने मर्यादा घालून कर्जाचे वेळीं नसतच म्हटले पाहिजे.

भाग २ क. १८ - कर्जांची रक्कम सावकारांच्या वेळीं असे ठरविले आहे. पुढे मर्यादा नसावी असा शेतकऱ्यांच्या हर्षां

साधारणर हल्ली धर्यास मदत हरिके.

भाग 3. नं. 23 भुणकारीया व्यवहारान्तर सरकारभाषणत भारी
तीर्थी नोंद होणार आहे; हे योग्य आहे व हा भाषणीपुढे शेतकऱ्यांचे
प्रत्यक्ष स्थिती सरकारच्या ध्यानांत घेऊन अनेक बाबतीतील धोरण
योग्य दिशेने बदलण्यास मदत होणार आहे.

भाग 3. नं. 24 कुवांकडून उत्पन्नपेक्षां निव्व्याहून अधिका
खंड धारणकर्त्यांनाही असा भाषणाने निव्विही होत आहे व प्रथम
शरित्त श्रेयस्पात्तन आहे.

भाग 3. नं. 25 हा योजनेनुसार होणाऱ्या सर्व व्यवहार
भाषणीची भाषणी वेळवेळी आहे ती योग्य आहे.
पटनियमांत गावांतील एंटेनरनेडे, लडन कायविरीक शब्द, आो
समाज्या स्थापना, सहकारी पत्तपेटयांचे समासद ह्य बाबतींत
जे धोरण स्वीकारले आहे ते योग्य आहे.

प्रतिकूल निवार -

भाग 3. नं. 25 ज्या भुणकारीयां वरि करीतचि किष्णे शक्य
असे नोंदरी अंतोः शरित्त लोका हा भाषणाने व्याहीतून नगव
हे योग्य नाही किणुतुता असा भुणकारीया प्रथम भाषणाने चलयन किय
भाषणे. पूर्ण लयडरित्तवार न इरडरितीही असे नोंदरी वेळ्यास असे.
भुणकारी असेवेळे अपठकतीक ल्यांना वगळणे म्हणजे भुणकारीयांचे
एक पुरवण उद्देवा विफळ करण्यासारखे आहे. प्रत्येक भुणकारीया वरि
भाषणता पूर्णपणे ध्यानांत घेऊन ल्याहून जास्त करि असल्यास ते न
जरीत अर निवडमाने जकर लवढ्या प्रसिद्धिपत्तित उतरविणे अगत्य
आहे. असे करण्याने भाषणकारीया अपेक्षा विफळ होतात हे खरे.
परंतु शेतकरी शेत्यांत राखायल्या असेवेळे लर लोका सरकार
भुणकारीयांचे ल्या वारवला किष्णे आवश्यक आहे. भाषणाने भुणकारीया
भाषणांत अधिक करिषे फेळ्यानांतर जर शेतकऱ्यास आपल्या
करण्यास मुभा न कियेळ लर ल्याही कायशिमता व संलोपवुती न
हीव जाउन समाज्या लोका हरिके. वैयक्तिक दिवाजी कायल्ये
पध्दत आपल्या समाजांत काणं वरणे योग्य नाही. व सुद्धेवाते लीपा
सुद्धी होणार नाही. सामुदायिक सत्ते प्राप्त मान आपल्या प्रसिद्धी
भुणकारीया जेवेळ पुरवता किष्णे आवश्यक आहे.

ज्यात गावाबाहेर सुतराने सुद्ध कुठ्यां फलित होती वरुणमांची
(Absentee landlord) गावाबाहेरीक व्यवसायांची नजे ह्या
कामदान्या व्याप्तित येणार नाहीत, अशी खबरदारी घ्यावत यावी.
(भाग 2 क-10 (अ))

भाग 2 क-10 (अ) चे अर्थ व सहकारी पेढ्यांच्या कर्जात
ह्या कामदान्यांना कोणताही फायदा नाही हे नमूद नाही. मुण्डाविनायक नमूद
पुरवठा करण आहेत, मुण्डापाची कर्जासाठी पात्रता येण्यात येत
व्यक्तनें पार मर्यादित नते हे होय. सावकारांच्या व कुठ्यांच्या गरीबिनी
पणा किंवा इतर रीत्या ही ही इतर, परंतु कोणी महत्त्वाची कारणे आहेत
मुण्डाविनायकाच्या मजने पुढे इतर मनकास आपले घरे उतरविणे
भाण पाणार, तसे ते सहकारी व इतर पेढ्यांसही मां पडतये ? सहकारी
कामदान्याने तजोड करत येते, परंतु मुण्डाविनायकाच्या द्या र
यात कामदान्याने मां साख न पुढे आपला कामदान्याने तवीन कामदान्या
नुसार होणारी तजोड सहकारी व इतर पेढ्यांच्या कामदान्याने
पार यावी.

भाग 2 क-14 ह्या कामदान्याने होणाऱ्यांची व कर्जात नवी वाढ
द्वारे सहकारी कामदान्याने मनाई मां करावी हे नमूद नाही. निरिद्धि
स्थाजांतीक काही कामदान्यांत अशीच मनाई आहे हे नमूद. परंतु ए
सावकार व वकील हे अनिश्चितीक कोणताही ह्या एकांची अर्थाप
वेलां कुठल्या मनाई करणांत आली आहे. कामदान्याने मुण्डाकास मना
द्वारे सहकार्यास भाग पाडावे, त्याचे मुण्डाणे (कून द्यावे). त्याची ल
करणाच्या तजोड मंडळास अधिकार द्यावा. परंतु लाला योश नते
त्यास एखाद्या प्रतिनिधीमंडळित आपले मुण्डाणे पुढे मंडळास अपर
यास पुढी द्यावे मनाई नसावी. प्रतिनिधी वकीलाने मनावर असे न
सरकारने तजोडला तजोड मंडळाबाहेर इतक्याने निरिद्धिची मना
कून नये तसे मुण्डाणे रास्त नाही. मंडळाची काम पधती संक्षिप्त व
सरकारी मंडळाच्या हुकुमतीबाबी व कीली मुण्डाणे वरिद्धांच्या दिग्दर्शने व
उच्च सुदृष्ट तासधान्याने होणारी वाढ घानी व निवृत्ताना रवेत.

भाग 3. क-22. नवीन कर्जे काढण्याची ती सहकारी सावकारांनी
काढावी हे व्यायदाने निविधन एका अर्थाने योग्य आहे. परंतु म
कां सावकारांनी कर्जे न दिले तरी मुण्डापाची गरज सरव नही म
वेवेला ती इतर सावकारांकून कर्जातले. असे कर्जे मुण्डाणे हा मुण्डा
हीं वाढत नाही. मनां कर्जे मनाजे कर्जात नये मनाला कामदान्या

व्यवहारान्तर हीणारा नयनकारक परिणाम, व उत्पत्तीस सर्व प्रकारची सर कारवर योजन पडणारी जबाबदारी हातून, आर्थिक साठ्यावस्थेत पुढे पूर्ण विचार घेत जबर आहे. भावनेचाडी व राज्याची मधीक आर्थिक परिस्थिती निष्पत्तीतडारि इतकीस फितपत अनुभूत आहे ही उत्पत्ती विचार हातून असल्या. पण ही नावतीत एक हांका उद्भवते ती जबरती, उपागांवांत पुढील मधीक परिस्थिती (वरी अनुभूत आहे) तेथे स्थान मरी कजिजारीपण एकथा प्रमाणंत; म्हणजे विशेष स्वरूपाच्या भयदा लागू नरना लाग्या इतक्या, कां आहे?

उत्पत्ती व निधीच्या परि. नि. प्रमाणे हीणारी मुण्णे व घनता हां लज्जे असातीपरि स्वरूपही हीणार नाही, हावदूळ मध्येती खबरदारी घेणांत म्हणून.

(नियमांच्या प्रमुखांत क. २६ प्रमाणे डेकेडे म्हणून जे नियम होत आहेत ते क. २५ प्रमाणे असावे असें वाटते) हा नियमांतरीक प. ९ प्रमाणे हीणत्या जालीचे वेळी मुण्णेस उपजिविकेचा पुरेसा व म्यारतरी फियकल जहा न नरण्याची व्यवस्था होईल नाही. प. १२ मध्ये कोवड्या पाठ्याने व इतर उत्पन्न वाढविण्याने जे पापि रिडे असे सर्व मुण्णेस सारकेच लागू वरणे रुप आहे. हावदूळ संस्थाना कार्यवाही स्तराची खाली कडून घेणे रुप आहे. त्याचप्रमाणे उत्पन्न वाढीच्या बाबी हा निष्पत्तीतडारि आहेत, हावदूळ पूर्ण विचार घेत जाणे आहे.

हा योजने पुढे सरकार वरीक व सरकारच्या अधिकार्यांवरीक जबाबदारी वाढत आहे. गांम्यांनर नियंत्रणेही विशेष स्वरूपाची आहेत व पुढेचीने उत्पन्नांत अपेक्षे प्रमाणे वाढत साठ्यात आर्थिक दृष्ट्या ही प्रक उपस्थित होण्याच्या संभव आहे. सरकारने कजि निवारण्याची वेळदेती घेत, इतक्यांच्या प्रगतीवरून अधिकार्यांनर मधीक देती वाढीची व हा सुधारणे नरला इजि सारण्याची इतक्या ल्याची हा मध्ये विशेष साध्यान वरण वाटलात सुधारणेचा वेळ नरत आहे मधीक वरणे जाणिवे व्यक्तित्वा इतक्याच्या साठ्याच्या उद्देशी म्यारतरी मधीक अधिक वृमणेवणे हा वान दिवांनी प्रमुखांत वरी वरणे जाणिवे आहे. विशेषतः सरकारी अधिकार्यांनर लज्जे मध्येक व नरतर अधिकारी संस्थांत वाकियुक्त रिनाइतर प्रतिनिधी घेत रितात आहे.

मौखिक संस्थानच्या ऋणावैमाचनान्या कायदा-
संबंधी रचना.

प्रजेच्या ऋणावैमाचनान्या कायदा करावयाचा
संस्थानच्या त्यांचे स्थूलमानाने तीन भाग करणे योग्य
होईल. (१) अल्पक्ष ऋणावैमाचनसंबंधी; (२) शत-
करी संरक्षक योजने संबंधी व (३) भावी काळात
शतकल्याची सर्वांगीण उन्नती शक्य व भागी ठ-
रुणा पुढीं त्यांचे हातून हाणारव्य तशीत अशा
बहुल विधायक योजने संबंधी, म्हणजे आम-
पंचायती सारखा कायदा अमळांत आणणे वगैरे.
यापैकी तिसरा भाग ऋणावैमाचनानंतरच्या
अमळांत यणावर असल्याने याबद्दलचा नुकतो
नामानदेही करून त्यांचे विवेचन न करता
आकांच्याच दोन भागापुरता येथे विवेचन
केले असता आम भागणार आहे.

आतां पहिल्या दोन भागांचा मात्र
अल्पत निवड्या संबंध आहे. शतकरीवगांचे
अज्ञान व ^{गरजपणा} आणि सावकारवगांची
दिव्य ठेवण्याची हाकांगी फायदेशीर व सदाय
पध्दत व त्यांचे व्याजाचे भारी दर घ्यावुके
ज्यासित न्यायपध्दतीत सावकारांची वाजू खाडी
असताही तीच खरी ठरण्याचा व त्यामुळे ऋणकारांचे
नुकसान हाण्याचा संभव फार. याकरता, शतकरी
ऋणकारा एक अकाराचे संरक्षण वरील आपली
ठावण्याकरता मिळणं जरूर आहे याबद्दल कोठे
दुमत असावरे वाटत नाही. ऋणावैमाचनान्या प्रक्ष
हातीं घेताना तर या संरक्षणाची जरूरी फारच आहे.

कारण, ग्रामावे माचन काम्याचे म्हणजे कुज्या
 निधीत आकडा तरी कळवा पाहिजे; व तो तसा
 कळावा याकरतां ग्रामकाये खरेचुरे देणे किती हे
 इराविके पाहिजे. या बाबतीत सावकारांच्या नुसत्या
 चापड्यानीळ आकड्यावर अवलंबून चांगवयाचे
 नाही. याप्रमाणे, ग्रामावे माचनाची योजना
 हाती घेतानाच शांतक्यास संरक्षण दिव्हे पाहिजे
 हे तर खरेच. यारीवाय, या संरक्षणाची जरूरी
 एवढ्यावरच संपले असतां म्हणतां येत नाही. ग्राम-
 णावे माचनानंतरच्या काळात तर शांतकरी संर-
 क्षक कायद्याची आवश्यकता विशेष आहे.
 कारण, एकदा ग्रामाभुक्त शाळेला शांतकरी पुढां
 कुज्या वुडणार नाही किंवा आपी सावकारांच्या
 मूळ घुंता वकी पडणार नाही अशीही व्यवस्था
 हाणे जरूर आहे. परंतु न दृष्टिब तर ग्राम-
 वे माचनाचा हेतू पूर्णपणे लडीत न जाता
~~"ग्रामावे माचन"~~ ~~वरील~~ संक्षेप
 पूर्व निधीत पुढां शांतकरी घुण्याचा संभव
 आहे. याप्रमाणे शांतकरी संरक्षक कळमांची
 विचार ग्रामावे माचनाच्या योजनेचा विचार
 करतानाच हाणे कल्पित जरूर आहे व हाणेचा
 मसला एकत्र मद्याच छेदाने शांतका पाहिजे असे
 मला वाकटले.

ग्रामसुधारणेच्या दृष्टीने ग्रामपंचायतीच्या
 योजनेचा तीसरा ~~व~~ भाग म्हणून माचन
 जो उद्देश्य केला आहे याचा थोडक्यांत विचार करतो

पंचायतीचा काहीही

कायद्यान्वयेही नाही. अजोब...

दृष्टीने रोगी आजारातून उठल्यानंतर त्यास

इतकी जप्याकरता चौष्टिक पदार्थ खावयास

देऊन व आरोग्य विषयक चांगल्या संवदे

लावून देण्याचा प्रयत्न करून डॉक्टर भावी

काळातही लोडुदां रोगासंबंधी पंड नये म्हणून

भावी काळजी घेणे, व्यायामातून हात करीवणीचे

ग्राहिक जीवन सुरुवात व्हावे व एकंदरीत

त्याच्या वाईट संवदे नाही राहाऊन त्याची

संबंधीत उन्नती व्हावी (द्वितीय) ग्रामपंच-

चायतीची स्थापना करावयाची.

याअर्थाने व्यापकपणे तज्ज्ञावे माध्य-

माच्या योजनेत लोन्ही भागांचा संबंध घेणे.

पण ~~संबंध~~ लिखाणा भागा संबंधाने तज्ज्ञ-

वेमापनानंतर काही शाखेतरी ग्रामपंचाय-

तीची स्थापना अजेच्या हिलासाठी म्हणून

करावयाचीच एवढा निश्चय ^{साध्यापारून} सरकारने आप-

ल्या मनात मनापासून करूनच तज्ज्ञावेमापना-

च्या योजनेत हात लावावा ~~वा~~; पुढे काहीही

करतां यशस्व असा धररकाडीचा विचार-

करतां कामानये ही महत्त्वाची गोष्ट आहे.

~~म्हणे~~ हीच विचारसरणी सरक्षक

कायद्याच्या भावी अंमलवारीचे बाबतीत घ्याना.

वागावेणी पाहजे असे महत्त्वाचे. ताव...

पूर्वकें ठरविल्यानंतर- फल्यदा मडणावेमाचनी
या याजन च्या विचार करणारा ठरवत नाही.

अर्थ संस्थानच्या मडणावेमाचनीच्या कायद्याच्या
सरुधांत मडणावेमाचनीची शेतकरी संरक्षक कायद्यानीं
अशी ~~कमी~~ मिन ~~५~~ स्वरापायीं कळमे राकन
आणानीं आहेत यातुके धाडारा धाराका शाकेण
आहे. ~~५~~ मडण विमाचन आणी शेतकरी संरक्षण
ही दोन्ही अगदीं मिन भरून लीं अगदीं मिन
~~कमी~~ तलावर आधारिलीं आहेत. मडणावेमा-
चनीच्या हेतू व संरक्षणाचा हेतू हेही मिन
आहेत. अशा स्थितींत दोन्ही कायदे मिन
स्वरापांत पार करणें ज्यास सयुक्तिक व
सुदिये दणार आहे. शेतकरी संरक्षक कायद्याच्या
अतुके कळमाअमाणें दिशेव त्यासंबंधी पूर्वनिर्धार
पश्याचा व चौकरी करणाचा मडणावेमाचनीस
आधिकार आहे अशा आशयाचे एक कळम
मडणावेमाचनीच्या कायद्यांत समाविष्ट केल्यानें
काम भागणार आहे.

मडणावेमाचनीच्या कायद्याचे कळम
४ यांत धारव्या दिल्या आहेत त्यांत "शेतकरी"
मूण जी शेतकऱ्याची ~~५~~ धारव्या वेगीं आहे
तिचे प्रयाजन काय हेच समजत नाही. या
मडणावेमाचनी याजनेंत शेतकरी आणी मिन
शेतकरी अस वगीपाडून धारव्या मडणावेमा-
चनी अवोबूनच जर ठेवलेले नाही तर ही
शेतकऱ्याची धारव्याच पुढीं कां केली?

एडो २३

(मगत शैलकरीं अशा...)

कला आहे असं स्पष्ट रिकती यामुळे

अशा व्याख्या करण्याचे प्रयोजन काय ते कळत नाही.

एडोच्या या योजनेत आणखी एक
 मोठा दोष म्हणजे १३जाड कामेही कडून ठराव-
 ज्यांत येणारी सर्वच रकमे सावकारास म्ह-
 णणकांच्या वतीने दिली जाणार आहे. यामुळे,
 ही बाब नोंद घेऊन काणाच्या वकला रीतीने काय-
 चाची किंवा नुकसानीची शहिले याची सुविधि
 निश्चीती साहिलेची नाही. १३जाड कामेही जी
~~किंवा~~ रकमे ठरविलेले यावरच कसवे गादी
 अवलंबून आहेत. (कलम २३, २४, २५, ३६ व ३७ पहा)
 वास्तविक जे हेजे सावकारास चौकशी अली धाव्याचे
 ठरेल ते सर्वच्या सर्व धाव्याचेच असे या मण-
 विभाचनेच्या योजनेचे स्वरूप आहे असे दिसते; आणि
 ही शो आणि विन शो करणाऱ्या अशा सर्व
 प्रकारच्या मणका संबंधाने ही योजना धाव्याची
 आहे. अशा स्थितीत सरकारास थोडीच नुकसान-
 कारक ही योजना शहिले असे कारणे दुसऱ्या पक्षी,
 मणकानोही तो नुकसानीची शहिले. कारण
 कलम १९ प्रमाणे मणकाची सर्व स्थावर जगणे
 इस्टेट सरकारच्या हुयेबंदीच्या रकमेकरता घेतली
 जाण्यास पात्र ठरणार आहे. सावकारास तशी एक-
 रकमेने सर्व कामे वसूल रिकणार आहे असं म्हणावे
 १३-१३ही या योजनेत नाही. (कलम २७ पहा).
 या सर्व कारणांमुळे सरकारचे निश्चीत धारण
 अयुक्त आहे असे कठिनी या योजनेत दिसून येत नाही.

१११११२

एकदा धर्मोत्तम आठव्या नाश. मग शुभलाचा धर्म
दूरच राहिला. हीच गंत अपराधी कामेटीची आहे.

मरणवेदांतानंतर कथाकार कर्ज काढा =
वयाचे इगल्यास याले मागास फारच अडवणी
उपास्थित केल्या आहेत (खंड २-१७३ पृष्ठा)

I must apologise to you for not replying to your letter earlier, as I was busy with the arrangements regarding the third Session of the people's Educational Conference. I hope, you will excuse me for the delay.

2 After going through the Aundh State Debt Settlement Act and comparing it with Bhavanagar Act and other regulations in force in C.P., U.P. and Punjab, there appears to be fundamental difference in principle, the paternal attitude adopted by the Aundh State, however commendable it may appear it fails to create sense of responsibility in the public and the laudable intentions of the Govt: are likely to be misunderstood and mis-interpreted at different stages and in as much as the public ought to be taught ultimately to manage their own affairs, in the most ~~difficult~~ efficient and economical manner, and this debt redemption cannot be obviously resorted to more than once, cooperation and education of the public, in managing their affairs is necessary in the successful working of the scheme. I am not ignoring the fact that in as much as the Govt: is paying the amount it should enjoy - - proper safeguards.

3 In the Bhavanagar scheme, consent of the people is necessary to apply the scheme vide Rule 3, but in the present draft the matter is entirely left to the discretion of the Govt: I prefer the spirit of the Bhavnagar scheme to the latter, so that the public might wholeheartedly co-operate with the Govt: in this respect.

4. The Board for settlement of Debts should include a representative of the Creditors and Debtors so as to enable the Committee to look at the problem from every angle of - - vision

5 I am afraid the procedure laid down in Rules under Sec.24 is too elaborate and in the majority of the ~~cases~~ cases of urgency ^{by the time the debt is sanctioned, the urgency,} of the debt will have vanished or the object might be frustrated. In fact that is one of the reasons why the Co-operative Societies have been popular with the Debtors.

although they charge lesser interest.

6 It appears that money lending in future should be confirmed to the Co-operative Societies or the Bank, but in addition ^{to} that I should suggest that scheduled Bankers should be granted License to do money lending business, subject to certain rules, the rate of interest being fixed by the Govt: from time to time, along with the provision for keeping accounts in a specified manner.

7 The Act aims at redeeming the Debts of debtors in a particular locality, whether they are ^{agriculturists or not, perhaps it would be better to confine to} agriculturists alone to begin with. Besides the debts of the Money lenders interest ought not to come under the purview of the Rules, at any rate.

8 The provision for encouraging poultry should be recommendatory and the Agriculturists should be compelled to take up any one of the home industries, as a supplementary source of income.

9 Instead of excluding such a debtor from the operation of the Act, whose debts apparently are of such a magnitude which can never be discharged, some limit should be fixed in the light of the assets of the Debtor and his debts also should be redeemed, equitably to the benefit of all the Creditors, as provided for in Rule No.6 of the Bhavanagar Act. and other similar provisions in other enactments.

10 When once it is decided that the Act should apply to a particular locality, no option should be given to any debtor to evade the operation of the Act, for the presence of such debtors is likely to act as a poisonous weed spoiling the process of evolving a Self-sufficient and well ordered Society in future.

11 For obvious reasons, legislation in the States in this respect is ahead of the legislation in British India, but attempt should be made to infuse Democratic methods in solving this economic problem instead of adopting the time-honoured methods of a benevolent Monarch. Agriculturists relief must not deteriorate into encouragement of habits of recklessness & fraud, but should work as corrective only.

12 I believe the establishment of Village Panchayats and compulsory Primary Education are necessary for the successful working of the scheme.

It is in the fitness of things that Aundh State which has Democratised its Administration should pass such a Bill, and thus add one more feather to its laurels.

Yours sincerely

Sd/- L.G.Ganu

29th November, 1936
Hyderabad Deccan.

OPINION.

Regarding the definition of the word "Agriculturist", I have found that in the Sangli Act on a similar subject, they have inserted the following proviso. " That/ no person whose income from non-agricultural sources ordinarily exceeds Rs.300/- per year, or who holds land assessed at more than Rs.100/-, - shall come within this definition. "

I think it will be better if some such term is included in the definition, in the Oundh Bill.

Re: Clause 11, in my opinion, an appeal should be allowed from the decision of the Arbitration Committee for claims over Rs.500/- and one Revision Application should be allowed for claims below Rs.500/- . It will be too much to make all -- decisions of the Arbitration Committee final.

Re: Clause 13, the Revising Committee should have power to go into the merits of the decision.

Under Schedule II, paragraph 15 a & b of the Civil -- Procedure Code, a Court can set aside an award if corruption of arbitrator, or fraudulent concealment by a party are proved. Therefore to make these awards final and without any appeal would make the Arbitration Committee very irresponsible. Therefore it is quite necessary that there should be some remedy by way of appeal and Revision Application on merits over the -- decision of the Arbitration Committee.

Re: Clause 14, it is wrong to consider that pleaders are nuisance. Pleadors do help justice and if not for anything, in order to have a sufficient check on the working of the -- Arbitration Committee, parties should be allowed to be -- represented by pleaders. Many intricate questions of law and fact will come before such Committee and in the absence of -- pleaders to help the Committee, the decision of the Arbitration Committee will be arbitrary.

Re: Clause 15. In my opinion this provision should be wholly deleted. The clause is too vague and too arbitrary. If disobedience is to be made penal, there should be more -- clearness in the clause and in the first place my opinion is that to make penal breaches of orders in a legislation like this is contrary to natural Justice.

Re: Part III, clauses 22 & 23 my opinion is that -- these clauses are more befitting for Hitler or Mussolini than an enlightened Prince like the Oundh State. I don't think that it will conduce to the benefit of the villager to reduce his ~~xx~~ credit to zero point. The State has safe-guarded its position by Clause 19 to have a first charge on the property of the debtor for the dues of the State. Having safe-guarded its position, it is too much to say that he should not borrow a pie from other sources than a Society. In my opinion such freedom must be kept even though he may be a debtor who is to be redeemed and a strict binding of this type will not conduce to the good of the people for whose benefit the Bill is intended.

Clause 23 also in my opinion will never conduce to the good of the people. While redeeming the debts, one must keep in his mind that one wants to build a healthy and independent population. Spoon-feeding of this type will never raise the -- status of the debtor and with this kind of treatment viz. -- keeping accounts of the income and expenditure of the debtor would lead them to abjection. Therefore in my opinion, Clause 22 & 23 should be wholly deleted, but there must be some sort of check on the borrowing tendency of a debtor. Therefore I suggest that in the villages in which the Act will be introduced, there -- should be only registered money-lenders. By Registered Money-lenders I mean those Money-lenders who would register themselves with the State for carrying the business of Money-lending and who should be obliged to keep their accounts in a prescribed -- manner and dealings of the debtors with any one other than a Society or a Registered Money-lender should be prohibited.

Clause 25 in Part IV in my opinion is not wise. In my opinion, it is impossible to train people by compulsion and it is further silly to make rules for the every-day conduct of people. Atleast it is inconceivable to me that rules can be made which would uniformly apply to every individual in a village for increasing one's income; though these rules may appear good on paper they would be a means of harassment in the hands of unscrupulous officers or dead letters in the Statute.

Clause 26 is also arbitrary. There is no justification to put a superior-holder to the tyranny that is incorporated in the clause. I think it requires to be deleted.

In Rules made under Clause 24 & 25, Rule Nos. 11, 12, 13, 14, 15, 16 & 18 requires to be deleted. My opinion is, you cannot force people to be good, you can induce them to be good. As soon as there is element of force, though it may be for the good, in my opinion, there is a tendency to revolt against that force. Therefore instead of forcing these things on the Rayats, they should be induced by persuasion to take to good things. If force is used, I am afraid, the reaction will be of such a type that for years to come it would be difficult to redeem these people. Therefore I think the Raja should be advised not to go at too fast a pace in his enthusiasm of redeeming his people from the clutches of money-lenders.

In my opinion, the Bill should be a simple one having only the following provisions.

1. Constitution of Arbitration Committee.
2. Choice should be left to the debtor and creditor to accept the decision of the Arbitration Committee.
3. If the creditor does not accept the arbitration, his interest should stop till he gets a decision from a regular Tribunal, and in case the creditor accepts the Arbitration Award, no choice be left to the debtor to dispute it except by way of appeal.

4. To satisfy the creditors, dues Land Mortgage Bank should be established who would pay off the — creditor and the debt of the Land Mortgage Bank should have a first charge on the debtor's property.
5. Introduction of Registered Money-lenders to save debtors from unscrupulous money-lenders. Court should be prohibited from giving a decree to any one, but a registered money-lender.

Broadly speaking these should be the provisions of the Act and other matters should be left to friendly/persuasion and this can alone build up a healthy and well-meaning Rayats.

औष संस्थानचा
व्रणविमोचनाचा कायदा.

सन १९३७ चा २ रा.

औष संस्थानचा ऋणविमोचनासंबंधी कायदा.

सन १९३७ चा २ रा.

व्याजर्षी औष संस्थानातील विशेषतः शेतकरीवर्ग कर्जाबाजारी होऊन देशोवडीस लागू नये म्हणून प्रजेचे ऋणविमोचन करणे अगत्याचे आहे व व्याजर्षी रेल्यमहोत्सवाचे वेळी सरकार अंमंत राजेसाहेब यांनी या कार्योसाठी दरसाल रुपये २०,००० खर्च करण्याचे जाहीर केलेले आहे. त्याअर्धी खालीलप्रमाणे कायदा करण्यांत येत आहे.

भाग १ ला.

प्राथमिक.

१ सरनामा :- या कायद्यास औष संस्थानातील प्रजेच्या ऋणविमोचनाचा कायदा असे म्हणावे.

२ व्याप्ति :- (अ) हा कायदा व्या गांवास त्या तारखेपासून लागू करणेतंबंधी सरकारचा जाहीरनामा सरकारच्या गॅझेटमध्ये प्रसिद्ध होईल त्या तारखेपासून त्या गांवांत राहणाऱ्या अगर गांवात स्यावर मिल्कट घारण करणाऱ्या ऋणकोस व त्या गांवांतील कोणत्याहि ऋण कोशी देवघेबीचा व्यवहार करणाऱ्या त्या गांवांत अगर त्या गांवाबाहेर राहणाऱ्या धनकोस लागू होईल.

(ब) गांवांतील सर्व ऋणकोषे या कायद्याखाली पूर्ण ऋणविमोचन होऊन त्यासंबंधी संस्थानचे गॅझेटमध्ये प्रसिद्ध करण्यांत येईल व त्यानंतरच या कायद्याची त्या गांवांतील अंमलदारी बंद होईल.

(क) व्या गांवांस हा कायदा लागू करण्यांत येईल त्या गांवांतील कोणत्याहि ऋण कोस त्याचे नाव संस्थानचे गॅझेटमध्ये प्रसिद्ध करून त्याला सरकारचे मर्जीमाणे या कायद्याच अंमलदारीतून वगळतां येईल, तसेच ज्या ऋणकोषे कजे कधीहि फिटणे शक्य नाही त्यांचे नाव संस्थानचे गॅझेटमध्ये प्रसिद्ध करून त्याला या कायद्याच्या अंमलदारीतून वगळतां येईल.

३ विरोधा कायद्याची अंमलदारी तद्दूर :- या कायद्यास विरोधी अवे जे कायदे अगर कानून हल्ली संस्थानांत लागू असतील ते हा कायदा लागू असेपर्यंत तेवढ्यापुरते रद्द समजून त्यांचा अंमल हा कायदा लागू असेतोपर्यंत या कायद्याला विरोध येईल अशा रीतीने करण्यात येणार नाही.

४ व्याख्या. :-

१ उर्भी पिके :- यांत जमिनीस लागून असलेली सर्व प्रकारची पिके, तसेच झाडे व वनस्पती, पाने, फळे व रस यांचा समावेश होतो.

२ तडजोड कमिटी :- गांवांतील ऋणकोषे कर्जाची रकम निश्चित करून तिची केवळ कशी करावी ते ठरविण्यासाठी सरकारांतून नेमलेली कमिटी.

३ ऋणविमोचन :- बँक, सहकारी संस्था अगर कोणत्याही कायद्याखाली नोंदलेल्या संस्था, यांखेरीज इतर सावकारांचे कर्जातून ऋणकोषी मुक्तता करणे.

४ ऋण :- बँक, सहकारी संस्था अगर कोणत्याहि कायद्याखाली नोंदलेल्या संस्था यांखेरीज इतर सर्व प्रकारच्या धनकोषे देणे.

५ बँक :- औष संस्थान मध्यवर्ती बँक लिमिटेड.

६ (अ) स्टेट बँक म्हणजे ता. ८।१०।१९३२ च्या पूर्वीची औष संस्थानची बँक.

६ सोसायटी :- कोर्पोरेटिव्ह सोसायट्यांचे कायद्याखाली नोंदलेली औष संस्था-नांतील सोसायटी.

७ तिजोरी रोखे :- औंध मंस्थानचे तिजोरी रोखे,

८ तपासणी अंमलदार :- एखाद्या ऋणकोने सावकारास किंवी देणे आहे हे तहजोड कमिटीने ठरविले असता त्या ठरावाचा फेरविचार करण्याकरिता सरकारने नेमलेले अंमलदार.

भाग २ रा.

ऋणविमोचन.

५ तहजोड कमिटीचा अधिकार व काम.

कोणत्याहि ऋणकोने सावकारांचे नक्की देणे किती आहे ते चौकशी करून अगर तहजोडीचे ठरविण्याचा, तसेच ते देणे कसे व केव्हां फेहावयाचे ते ठरविण्याचा अधिकार तहजोड कमिटीस आहे; त्याचप्रमाणे कर्जाची तहजोड करतेवेळी कमिटीने खालील गोष्टी विचारांत घ्याव्या.

तहजोड कमिटीचे काम :- तहजोड कमिटीने करावयाचे काम दोन प्रकारचे असेल. (१) ऋणकोने धनकोचे कर्ज किती देणे आहे हे दक्षिणेतील शेतकऱ्यांस मदत करण्याविषयीच्या सन १८७९ च्या कायद्याच्या १२ व १३ कलमांमध्ये सांगितलेल्या तत्वांस अनुसरून ठरविणे, व (२) अशा रीतीने ठरलेल्या कर्जाची तहजोड करणे. कर्जाची तहजोड करतेवेळी कमिटीने खालील गोष्टी विचारांत घ्याव्या. (१) कर्ज केव्हांपासूनच आहे व कर्जाच्या पोट्टी किती रकम परत केली ?

(२) व्याजाचा दर कोणता ठरला होता व व्याजाची रकम किती दिली आहे ?

(३) कर्ज कशासाठी काढले होते ?

(४) कर्जाच्या अटी जाचकऱ्या होत्या किंवा काय ?

(५) कर्ज काढण्यापासून त्या गांवातील किंवा आसपासच्या जमिनीच्या आणि भिंकांच्या किंमतीत अंतर पडते आहे किंवा काय ?

(६) कर्ज फेहण्याची ऋणकोची ऐपत किती आहे ?

५ (अ) तहजोड कमिटीस दिशाणी कोर्टाचे अधिकार :-

व्या लोकांचे कर्ज दोईजड होऊन फिटणे असक्य झाले असेल याबद्दल तहजोड करून आणि धनको अगर ऋणको यास योग्य अवकाशाची नेटीस करून तो हजार शाल्हा नाहीं तर त्याजविहद एकतर्फे निकाल केला जाईल. त्या इसमांची जमीन साबकारांचे ताब्यांत जमिनीचे उत्पन्न ठरवून त्यामानाने जप्ततास्त २० वर्षे देण्याचा तहजोड कमिटीस अधिकार आहे. याबद्दल जरूर ते कारण सावकार व ऋणको यांचेकडून लिहून घेण्याचा अधिकारही ह्या कमिटीस आहे. सदरहू व्यवहाराचे धावतीत झालेल्या कागदपत्रास कोर्ट फी व रेजिस्ट्रेशन यांची माफी आहे.

ऋणको अगर धनको यांना समन्ने करण्याचा, त्यांना तहजोड कमिटीपुढे हजर करून घेण्याचा, कर्जासंबंधी पुरावा घेऊन अगर अन्य मार्गांनी चौकशी करण्याचा, कागदपत्र व हिशेब मागून घेण्याचा, तहजोड करण्याचा व अखेर निकाल देण्याचा, तसेच सर्वसाधारणपणे दिवाणी कोर्टास असलेले सर्व अधिकार तहजोड कमिटीस आहेत.

६ तहजोड कमिटीचा हुकुम :- तहजोड कमिटीने केलेला ठराव दिवाणी कोर्टाच्या हुकुमनाम्याप्रमाणे समजण्यात येईल. मात्र सदर हुकुमाची अन्मलबारी या कायद्यात निर्दिष्ट केलेल्या मार्गांनेच फक्त करता येईल.

७ तहजोड कमिटी घनकोने ऋणकोकडून एकंदर जी वसूल करावयाची रक्कम ठरवील त्या रकमेवर व्याज देणे शास्त्रास दरमाळ दरसेकडा सहा (६) टक्केप्रमाणे न्याय देता येईल.

८ तहजोड कमिटीस खालील व्यवहाराचे वास्तविक कोणताहि ठराव करता येणार नाही :-

- (अ) त्या वारखेस हा कायदा लागू करण्यात येईल त्या वारखेस मुदतीतून गेलेली देणी.
- (ब) दिवाणी कोर्टाने न्याय व्यवहाराचे वास्तविक हुकुमास केलेला आहे ते सर्व व्यवहार.

मात्र (ब) मधील देण्याचे वास्तविक ते देणे कशा रीतीने फेडावे ते तहजोड कमिटीस ठरविता येईल व दिवाणी कोर्टाने देणे फेडण्याच्या प्रकारावरून जर काही हुकुम केलेला असेल, तर त्या हुकुमांतही एकंदर देणे रकम जी कोर्टाने ठरविली असेल, त्या रकमेत फरक न करता देणे फेडण्याच्या प्रकारावरून या कायद्यात निर्दिष्ट केलेल्या योजनेला अनुसरून जरूर ते फरक करता येतील; तसेच पुढील व्याजावरून हुकुमनाम्यांत काहीही ठराव असला तरी त्या व्याजाचा दर कमी करता येईल. पण त्याहून व्याजाचा दर सहा [६] टक्केपर्यंत कमी असेल तर तो वाढविता येणार नाही.

९ (अ) ज्या गांवाला हा कायदा लागू करण्यात येईल त्या गांवात राहणाऱ्या (अगर त्या गांवातील जमीन धारण करणाऱ्या) कोणाहि ऋणकोविरुद्ध दिवाणी कोर्टात प्रॉमिसरी नोट, तारण अगर कब्जेगहाण, मुदत खरेदी या व्यवहारावरून अगर अन्य प्रकारच्या हातावरील अगर अन्य प्रकारच्या कर्जावरून चालू असलेले दावे चालविण्याचा अगर सदर दाव्यात कोणताही हुकुमनामा करण्याचा ज्या वारखेस हा कायदा सदर गांवास लागू करण्यात येईल, त्या वारखेपासून व हा कायदा सदर गांवाला अमलात असेतोपर्यंत दिवाणी कोर्टास अधिकार राहणार नाही.

(ब) हा कायदा लागू होण्यापूर्वी दिवाणी कोर्टाने उभा गावाला हा कायदा लागू करण्यात येईल त्या गांवात राहणाऱ्या ऋणकोविरुद्ध जे कर्जासंबंधी हुकुमनामे केले असतील त्यांची अन्मलबजावणी हा कायदा लागू शास्त्रानंतर दिवाणी कोर्टास करण्याचा अधिकार नसून त्या हुकुमनाम्याची फेड कशी करावी ते तहजोड कमिटीनेच ठरवावयाचे आहे.

(क) अशा तऱ्हेच्या सर्व दाव्यांतील कागदपत्र दिवाणी कोर्टाने तहजोड कमिटीकडे जाहीरनामा प्रसिद्ध शास्त्रापासून एक महिन्यांचे आत पाठविणे पाहिजेत.

(द) जे दावे दिवाणी कोर्टात हा कायदा एखाद्या गांवास लागू होण्यापूर्वी दाखल झाले असतील, त्या दाव्यांतील कागदपत्र वरील पेट कलम (क) प्रमाणे तहजोड कमिटीकडे पाठविणेचे वेळी त्या दाव्यांतील क्रियाशीलतेवर दिवलेल्या दाव्याचे रकमेवरील स्टांपाची रक्कम कलेक्टरने वादीस परत देण्यावरून कोर्ट की अॅक्टाप्रमाणे सर्टिफिकेट दिवाणी कोर्टाने यावे.

१० तडजोड कमिटी आपसांत तडजोडीने अगर स्वतः चौकशी करून जो निकाल देईल तो अखेरचा समजणेत येईल व त्यावर अर्जात अगर तपासणी अर्ज कोणत्याही कोर्टाकडे चालणार नाही.

११ तडजोड कमिटीने दिलेल्या कोणत्याही ठरावावरून दाद देण्याचा अगर त्यांत फेरफार करण्याचा अगर ज्या देण्यावरून तडजोड कमिटीने ठराव केलेला असेल त्या देण्यावरून कांहींही चौकशी करण्याचा अगर हुकूमनामा करण्याचा अधिकार दिवाणी कोर्टास नाही.

१२ तडजोड कमिटीने एखाद्या ऋणकोने धनकोस एकंदर किती रकम घावी हें ठरविणें असतां तिच्या एकंदर देणें रकमेच्या ठरावावरच फक्त तपासणी अम्मलदाराकडे एक तपासणी अर्ज धनको अगर ऋणको यांपैकी कोणासहि करतां येईल व तपासणी अम्मलदाराला सदर ठराव फिरवितां अगर त्यांत फरक करतां अगर पुनः तडजोड कमिटीकडे फेरविचाराकरितां पाठवितां येईल.

१३ तडजोड कमिटीपुढें धनको अगर ऋणको यांना वकीलमाफेत हजर राहतां येणार नाही.

१४ तडजोड कमिटीने अगर तपासणीअम्मलदारानें केलेला कोणताही हुकूम योग्य कारणाशिवाय धनको अगर ऋणको यांनी अमान्य केल्यास त्यांना हुकूम अमान्य करणारांस समरी चौकशी करून जास्त जास्त ५० रुपयेपर्यंत दंड करण्याचा अधिकार आहे व असा दंडाचा हुकूम जर तडजोडकमिटीने केलेला असेल, तर यावर तपासणी अम्मलदाराकडे अर्ज करतां येईल.

१५ तडजोड कमिटीकडून सावकाराचें देण्यासंबंधी जो निर्णय देण्यांत येईल, त्यास अनुमरून सावकाराच्या देण्याची फेड करण्याची सर्व जबाबदारी सरकारांवर आहे.

१६ तडजोड कमिटींतून ठरविण्यांत आलेल्या हुकूमप्रमाणें धनकोस सरकारी तिजोरींतून रकम देण्यावरून जरूर त्या मुदतीचे व हप्त्यांचे रकमेचे संस्थानच्या तिजोरीचे दरसाळ दर शेकडा ६ टक्के व्याजाचे रोजे तडजोड कमिटीच्या ठरावानंतर सरकारकडून देण्यांत येतील, व सदर रोक्याची रक्कम त्या त्या वर्षाचे रोक्यांत ठरलेल्या तारखेन ताजुक्याच्या तिजोरींतून धनकोस देण्यांत येईल. परंतु जर नेमके तारखेस धनकोने तिजोरींतून रक्कम नेली नाही, तर त्या रकमेवरील सदर रोक्यांत नमूद असलेले दरानें त्या तारखेपासून तो धनको रक्कम नेईपर्यंतचें व्याज त्यास मिळणार नाही; मात्र धनकोकडून तशा लेखी मागणी आल्यास सहरहू रक्कम पोस्टाचे मनीऑर्डेने धनकोच्या खर्चानें पाठविण्यास हरकत नाही.

१६ (अ) तिजोरी रोक्याचे तारणाकरितां सरकारनें दरसाळ बजेटांतून कमीतकमी दहा हजार रुपये त्याकामाकरितां निराळे काढून बँकेंत ठेवावेत. या रकमेचा विनियोग फक्त ऋणाविमोचनाकरितांच केला जावा.

१७ सरकारच्या या योजनेस अनुमरून दिलेल्या कर्जरोक्यास इंडियन सिक्युरिटीज ॲक्ट लागू करण्यांत आला असून सरकारनें केलेल्या नियमांप्रमाणें सदर कर्जरोखे टॅन्सफर करतां येतील.

१८ ज्या ऋणकोचे देण्यावरून तडजोड कमिटीने ठराव करून तें देणें निश्चित केलेलें आहे, त्या ऋणकोच्या सर्व स्थावर जंगम मिळकतीवर जमीन महसुळानंतर सरकारचा अग्नेसरत्वाचा हक्क त्या रकमेपुरतां राहिल व तडजोडकमिटीने जी रक्कम दरसाळ देण्या वरून ठराव केला असेल, ती सर्व रक्कम जमीन महसुळ म्हणून ऋणकोकडून वसूल करण्याचा सरकारचा हक्क आहे. येणेप्रमाणें जास्त जास्त २० वर्षांत रक्कम वसूल केली जाईल.

१९ हा कायदा अमलांत येणेपूर्वी ऑब स्टेट व्हकेंने जर कोणा ऋणकोस या पूर्वी कर्जाक रकमा दिलेल्या असतील, तर त्या रकमाची फेड वरील कलम १० प्रमाणे जर सरकारनी केली तर ती रकम ऋणकोसदून वसूल करण्याचा सरकारला कलम १९ प्रमाणे अधिकार आहे.

२० ऑब स्टेट व्हकच्या येण्याचे बाबतीत तहजोब कमिटीला फक्त सधर रकमेच्या फेड्यांचे हजे ठरविता येतील. या हजेच्या रकमेवर व्याज दरसाल दरशेंकडा ६ रुपयांपेक्षा जास्त दराने आकारले जाणार नाही.

भाग ३ रा.

नवी कर्जे काढणे व पैशांचे देवघेविसंबंधी व्यवहार.

२१ ज्या गांवास हा कायदा लागू असेल त्या गांवातील कोणाहि इसमास कांहींही रकम कर्जात घ्यावयाची असल्यास ती फक्त त्याला सोसायटीकडून देता येईल. याखेरीज इतर कोणताहि कर्जावर रकम घेण्याचा व्यवहार रर व गैरकायदा समजण्यांत येईल.

२२ हा कायदा ज्या गांवास लागू असेल त्या गांवातील पैशाचे देवघेवचा सर्व व्यवहार सरकार ठरवील त्या अंमलदाराच्या मंजुरीनेच सरकार या बाबतीत जे नियम करील त्या नियमांना पात्र राहून करण्यांत येईल. तसेच सोसायट्यांच्या सर्व व्यवहारांवर सरकारची देखरेख राहिल व ज्या ऋणकोच्या ऋणासंबंधी तहजोब कमिटी ठराव करील त्या ऋणकोचे उत्पन्न व जमालचे यासंबंधी सरकारमार्फत सर्व हिशेब ठेवण्यांत येतील व असे हिशेब ठेवण्यासाठी जर ती माहिती सरकारने या कलमांखाली केलेल्या नियमांप्रमाणे योग्य अंमलदारास सर्व संबंधी माणसांनी पुरविली पाहिजे. सदरहू रिशेबाची एक प्रत ज्या त्या इसमाजवळ राहिल.

२३ ज्या इसमाने या कायदाअन्वये ऋणविमोचन झाले असेल त्याला पुढे योग्य व जरूरीचे कारणाकरिता कांहीं कर्जे लागल्यास ते त्या गांवातील सरकारनी नेमलेल्या अंमलदाराचे सहयाने ताबडतोब सोसायटीतून मिळणेची व्यवस्था करणेत येईल व या कारणाकरिता त्या गांवचे सोसायटीचे नियमांत जर ते फेरफार करण्यांत येतील.

भाग ४ था.

२४ या कायदाच्या अंमलवारीकरिता, तसेच या कायदाचा अगर कायद्याखाली केलेल्या नियमांच्या अंगावरून शासन ठरविण्याकरिता सरकारला या कायदाशी विसंगत नाहीत असे नियम करण्याचा अधिकार दिलला आहे. हे नियम गॅनेटमज्ये प्रसिद्ध झाल्याबरोबर अमलांत येतील. मात्र हे नियम प्रसिद्ध झाल्यानंतर, भरणाऱ्या पहिल्या प्रातिनिधिक सभेच्या अधिवेशनांत ते सभेच्या देबलावर ठेवण्यांत येतील व सभेत बहुमताने या नियमांची न्यायप्रमाणे दुरुस्ती करण्याचे ठरेल, त्याप्रमाणे जर ते फेरफार करणेत येतील.

२५ ज्या गांवास हा कायदा लागू करण्यांत येईल, त्या गांवातील ज्या इसमाचे ऋण-विमोचन या कायदाअन्वये करणेत येईल त्याने या कायद्याखाली त्याचे उत्पन्न वाढविण्याबद्दल जे नियम करणेत येतील त्या नियमांप्रमाणे वागळेच पाहिजे.

२६ कोणाहि वरिष्ठ धारण करणारास हा कायदा ज्या गांवास लागू करण्यांत येईल, त्या गांवातील जमिनीबाबत त्या गांवात राहणाऱ्या या कायदाअन्वये ऋणविमोचन झालेल्या जमिनीबाबत त्या गांवात राहणाऱ्या ज्या जमिनी त्याचेकडे लागणीस असतील त्या जमिनीचे अंदाजबद्दल त्या जमिनीत ज्या झालेल्या अंदाजी मागणी असेल त्यासाठी उत्पन्न झालेल्या देव घेव्याचे किंमतीच्या निव्यापेक्षा जास्त रकम ठेव रोविल्या जाणाऱ्या

शुद्धकी अडिकान्यांकडून वसूल करून दिली जाणार नाही. वसेच अगिनीत वसूल झालेल्या ऐन पिकांच्या निव्यापेसां अधिक गलाहि सदर कळमाप्रमाणे वसूल करून देला जाणार नाही व या कळमाचा अम्मल करितांना धरिष्ठ धारणकरणार व कनिष्ठ धारण-करणार यांचेमधील कसल्याहि प्रकारचा करार लक्षांत घेण्यांत येणार नाही.

२७. तहजोड कामेटीपुढे अगर तपामणी अम्मलद्वारापुढे दिलेल्या कोणत्याहि किर्या-दीला अगर अर्जाला अगर कोणत्याहि कागदपत्राला कोर्टाची माफी आहे.

२८. औष संस्थान मध्यवर्ती बँक लि. न्या रकमा हा कायदा लागू असेल त्या गांवच्या सोसायटबांना कर्जांक देईल, त्या सर्व रकमा सरकारच्या हमीवरच देण्यांत येतील.

औष संस्थानच्या ऋणविमोचनसंबंधी कायद्याखालील नियमांचा मसुदा.

(ऋणविमोचन कमिटीने तयार केलेला.)

बाहीरनामा. [कलम २ : अ) प्रमाणे]

ज्याअर्थी औष संस्थानच्या सन १९३७ इ. च्या कायद्याच्या कलम २ [अ] प्रमाणे ऋणविमोचनाचा कायदा कोणत्या गांवास लागू करावयाचा वें सरकारांनी ठरविणेचें असून, ज्याअर्थी आटपाही तालुक्यांतील मौजे गळवेवाही व राजेवाही या गांवांस सदर कायदा लागू करण्याचें निश्चित झाले आहे, त्याअर्थी सरकार श्रीमंत राजेसाहेब संस्थान औष यांचे हुकुमावरून असें जाहीर करण्यांत येतें की :-

मौजे गळवेवाही व मौजे राजेवाही तालुके आटपाही या गांवांतील ऋणकोष्या ऋणविमोचनाच्या योजनेस अनुसरून ऋणविमोचनाचा कायदा व त्या कायद्याखाली यापूर्वी केलेले व यापुढे करण्यांत येणारे सर्व नियम सदर गांवांत राहणाऱ्या व त्यांचे या कायद्याखन्वये ऋणविमोचन होईल अशा सर्व शेेतकरी व बिनशेतकरी ऋणकोस सदर गांवांतील लोकांशी सावकारीचा व्यवहार करणाऱ्या घनकोस लागू करण्यांत आलेले आहेत व या कायद्याचा अगर या कायद्याखाली केलेल्या नियमांचा मंग करणारा कोणीहि इसम सदर कायद्यांत अगर नियमांत सांगितल्याप्रमाणे सासनास पात्र होईल.

दिवान, संस्थान औष.

नियम.

[कलम १ (क) प्रमाणे वगळण्याबद्दल नियम.]

१. जर कोणा ऋणकोस कायदाच्या अम्मलद्वारांतून वगळण्यांत यावे असे वाटव असेल, तर कायदा लागू झाल्याचा जाहीरनामा प्रसिद्ध झाल्यापासून आठ दिवसांचे आंत त्याने तहजोड कबेटीचे अप्यस्य यांचिकडे अर्ज केला पाहिजे.
२. ज्या कारणाकरितां स्वतःम वगळारवे असे अर्जदाराचे मत असेल तो सर्वे कारणे त्याने अर्जात नमूद केली पाहिजेत. तसेच त्या कारणांच्या पुष्ट्यर्थे जरूर तो पुरावा हजर केला पाहिजे.
३. अर्जदाराचा अर्ज आल्यानंतर त्या अर्जाचा विचार तहजोड कमिटी करील व अर्ज-दारास आपले म्हणणे त्यांचेपुढे मांडण्याची संधि देण्यांत येईल.
४. सदर कमिटीने अर्जदाराचे म्हणणे ऐकून घेऊन, व जरूर वाटल्यास गांवांतील त्याची माहिती असणारे लोकांस त्यांचेहि कांही म्हणणे असल्यास वें पुढे मांडण्याची संधि देऊन, अर्जदार यास ऋणविमोचनाच्या योजनेतून वगळण्याबद्दल ठराव करावा.

मात्र सदर ठरावांत अर्जदारास त्या कारणाकरिता बगळण्यांत आले असेल तीं कारणे नमूद केली पाहिजेत.

५. सदर कमिटीचा निष्काळ कायम समजण्यांत येईल अ. लो. निकाल संस्थानचे गॅसेटमध्ये सरकार मंजुरीनंतर प्रसिद्ध करण्यांत येईल.

६. कमिटीच्या समासदांत मतभेद झाल्यास दोनदिने समासदानीं आपआपल्या शिफारसींचे ठराव नामदार सरन्यायाधीश यांचकडे कायम निकालाकरिता पाठवावेत व ना. सरन्यायाधीश यांचा निकाल हा दरमाराचा निकाल म्हणून सरकारमंजुरीनें गॅसेटमध्ये प्रसिद्ध करण्यांत यावा.

७. कोणाहि अर्जदारास बगळण्याच्या तहजोड कमिटीच्या ठरावावर अगर कमिटीत मतभेद झाल्यास ना. सरन्यायाधीश यांचे ठरावावर कोणाकडेहि अपील अगर तपासणी अर्ज चालणार नाही.

८. कोणीही अर्जदार, तहजोड कमिटीनें दजर म्हणण्याचा दुकूम केल्यास जर दजर झाला नाही, तर त्याच्या गैरहजरीत त्याच्या अर्जाचा निकाल करणेत येईल; तसेंच ना. सरन्यायाधीश यांचेकडे अर्जर निकालासाठीं काम गेले असतां त्यांना कमिटीच्या समासदांच्या शिफारशीवरूनच निकाल करितां येईल; त्यांचेपुढे अर्जदार यांस आपले म्हणणे मांडण्याची संधि जर ना. सरन्यायाधीश यांना तसें करणे इष्ट वाटले तरच देण्यांत येईल.

९. कमिटीचे काम संक्षिप्त पद्धतीनें चालण्याचे असून अर्जाच्या सुनावणीची योग्य पद्धत कमिटीनें ठरवावी.

कलम ४ प्रमाणे जाहीरनामा.

त्याअर्थी औंध संस्थानचे सन ११३७ च्या कायद्याच्या ४ च्या कलमाप्रमाणे ऋणविमोचनाच्या योजनेसाठीं तहजोड कमिटी व तपासणी अम्मलदार सरकारनें नेमण्याचे आहेत, त्याअर्थी कालीलप्रमाणे नेमणूक करण्यांत येत आहे.

तहजोड कमिटी.

१. रावसा. दत्तदार, अध्यक्ष.
२. रावसा. न्यायाधीश, आटपाही.
३. रावसा. मामलेदार, आटपाही.
४. औंध प्रातिनिधिक सभेचे सरकारनें नेमलेले दोन लोकनियुक्त समासद.

सदर तहजोड कमिटी आटपाही तालुक्यांतील गांवापुरतीच आहे; दुसऱ्या कोणत्याहि तालुक्यांतील गांवांकरितां स्थ. त्या तालुक्याचे मामलेदार, तालुक्याचे न्यायाधीश व प्रातिनिधिक सभेचे दोन लोकनियुक्त समासद यांची कमिटी नेमण्यांत येईल. अध्यक्षीची नेमणूक मागाहून स्टेट गॅसेटान्त जाहीर करण्यांत येईल.

तपासणी अम्मलदार.

१. ना. रा. व. सरन्यायाधीश हे तपासणी अम्मलदार संस्थानातील सर्व गांवांकरितां नेमलेले आहेत.

तहजोड कमिटीचे नियम.

१. कोणत्याहि गांवांला हा कायदा लागू झाल्यानंतर त्या गांवांनी जाहीरनामा काढून व लो. गॅसेटमध्ये प्रसिद्ध करून एक महिन्याचे आंत मामलेदार यांनी गांवांतील सर्व ग्रुपको व घतको यांची यादी, तसेंच संबंधी असणारे इतरमांत नोटीस करून त्यांनी देणे व येणे रकम किती आहे यावरून कमिटीकडे रिपोर्टे करावा.

२ हा रिपोर्ट, तसेच ही माहिती खाजगी व गुप्त समजण्यांत येईल व त्याच्या नकला कोणासही देण्यांत येणार नाहीत.

३ तहजोड कमिटीने करावयाची चौकशी ज्या त्या गांवांतच करावयास पाहिजे.

४ सिव्हिल प्रो. कोडमध्ये आरबिटेटरनी जी कार्य करण्याची पद्धति दिलेली आहे, त्या पद्धतीनेच शक्य तोंवर तहजोड कमिटीने काम करावे.

५ ऋणको व धनको यांना आपले झणणे कमिटीपुढे मांडण्याची योग्य संधि देऊनच मग तहजोड कमिटीने योग्य कारणे देऊन आपला निकाल जाहीर करावा.

६ तहजोड कमिटीने आपल्यापुढे येणाऱ्या कामांचे रजिष्टर ठेवले पाहिजे व त्या रजिष्टरांत धनको व ऋणको यांचे म्हणणे, त्यांचा पुरावा व कमिटीचा निकाल नमूद केला पाहिजे. साधारणपणे रजिस्टर खाळील पद्धतीचे असवे.

- १ अनुक्रम नंबर
- २ धनकोचे नाव व पत्ता
- ३ ऋणकोचे नाव व पत्ता.
- ४ एकंदर देण्याबद्दल मामलेदाराच्या रिपोर्टाचा सारांश.
- ५ धनकोच्या म्हणण्याचा सारांश.
- ६ ऋणकोच्या म्हणण्याचा सारांश.
- ७ धनकोच्या पुराव्याचा सारांश.
- ८ ऋणकोच्या पुराव्याचा सारांश.
- ९ कमिटीचा निकाल व कारणे.
- १० तपामणी अम्मलदाराचा निकाल व कारणे.
- ११ पेमे ऋणकोकडून वसूल करण्याची योजना.
- १२ पेमे वसूल करण्याच्या योजनेवरील वार्षिक रिपोर्ट.
- १३ इतर

७ तहजोड कमिटीचे काम संक्षिप्त पद्धतीने चालविण्याचे असून कमिटीपुढे आलेला पुरावा सविस्तर लिहून न घेता त्याचा सारांश वरील रजिष्टरात लिहून आपला ठरावहि रजिष्टरांत नमूद करावा.

८ धनको व ऋणको यांनीच तहजोड केल्यास कोष्टक ९ मध्ये तहजोडीच्या अटी लिहून त्याखाली दोघांची सही घेऊन तहजोड कमिटीने आपली संमती नमूद करावी.

९ धनको अगर ऋणको हजार न झाल्यास कोष्टक ५ अगर ६ मध्ये ही गोष्ट नमूद करून त्यांना हजार करण्याबद्दल कमिटीने काय तजवीज केली तें हि नमूद करावे.

१० दिवाणी कोर्टाकडून आलेल्या दंडाचे बाबतीत कोष्टक १३ मध्ये दि. मु. नंबर लिहावा व काम कमिटीकडे दाखल झाल्याची तारीख लिहावी.

११ तहजोड कमिटीने ठराव केल्यानंतर तिने धनकोस किती रकमेचे व कोणत्या साळाचे कर्जरोखे घावयाचे त्याचा रिपोर्ट सरकाराकडे सागळीच केला पाहिजे.

[कलम १८ प्रमाणे नियम.]

हे नियम गव्हर्नमेंट सिक्युरिटीजबद्दल ब्रिटिश सरकारने केलेल्या नियमांप्रमाणे असतील.

[कलम २५ प्रमाणे केलेले नियम.]

१२ गांवातील कोणाहि इसमास कर्ज काढावयाचे असल्यास त्याने कर्ज काढण्यापूर्वी ऋणविमोचनकारिता नेमलेले अम्मलदार यांकडे अर्ज करून त्याची मंजूरी मिळविची आहे.

२. सदर अर्जात अर्जदारांनी खालील गोष्टी ममूक केल्या पाहिजेत.

- १ अर्जदारांचे नांव.
- २ कुटुंबातील माणसांची नावे व नाते.
- ३ एकंदर कुटुंबाच्या जमिनीचे क्षेत्र व आकार.
- ४ एकंदर कर्ज व तहजोड कमिटीने केलेली कर्जाची इतकवस्था.
- ५ तहजोड कमिटीच्या ठरावाप्रमाणे हजे फेडण्याची अर्जदारांनी अर्जाच्या सादलेपर्यंत केलेली तजवीज.
- ६ आपले उत्पन्न वाढविण्यासाठी केलेली तजवीज.
- ७ ऋणविमोचनाच्या पूर्वीचे सालीना उत्पन्न व अर्जाचे सालापूर्वीच्या वर्षी झालेले सालीना उत्पन्न.
- ८ कर्ज कोणत्या कारणाकरिता काढावयाचे.
- ९ कर्जाच्या अटी व ठाजाचा दर.
- १० हे कर्ज कसे फेडण्याचा अर्जदाराचा विचार आहे.

३ या अर्जावर कलम १ मधील अम्मलदार यांना केलेला ठराव कायम समजण्यांत येईल व त्यावर कोणाकडेहि अपील अगर तपासणी अर्ज चालणार नाही.

४ जर अर्ज मंजूर झाला, तर वरील अम्मलदार हुकूम करतील त्या अटीवरच कर्ज काढण्यास परवानगी देणेत येईल.

५ सोसायटीकडून कर्ज काढावयाचे असल्यासहि वरील प्रकारचा अर्ज ऋणकोने केला पाहिजे, मात्र तो सोसायटीच्यामार्फत पाठवावा.

६ कर्ज काढण्यास मंजुरी मिळाली वर ते कर्ज फेडण्याच्या योजनेवरत वरील अम्मलदार यांचा हुकूम असेल तो अर्जदारांनी पाळला पाहिजे.

७ कोणतेही कर्ज फेडण्याचे कामी कलम १ मधील अम्मलदार यांचा हुकूम होईल त्याप्रमाणे कोणाहि ऋणकोने वागळे पाहिजे, व सरकारनी नेसलेल्या अम्मलदारांस वारंवार लागेल ती माहिती पुरविळी पाहिजे.

८ कोणाहि ऋणकोने सरकारांस आपले कर्ज व आपले उत्पन्न यांजवरत पुरविळेली माहिती खाजगी समजली जाईल.

९ कोणाहि ऋणकोने आपल्या अभिनीतीत पीक अगर ऋणविमोचनाच्या योजनेप्रमाणे उत्पन्न वाढविण्याच्या हेतूने सुरू केलेल्या कोणत्याहि भंजातील पैदास याची स्वतंत्रपणे विल्हेवाट न करिता ती सोसायटीमार्फत केली पाहिजे.

१० कोणाहि ऋणकोने आपल्या शेवकी अगर विलेखेवकी उत्पन्नाचा सर्व हिशेब सोसायटीस अगर सरकारांतून नेसलेल्या अम्मलदारांस दिळा पाहिजे व स्वतःच्या कुटुंबाच्या खपजीविकेस पुरेसे उत्पन्न सोसायटीच्या अगर अम्मलदारांच्या संमतीने ठेवून बाकीच्या उत्पन्नाची विल्हेवाट त्यांच्या हुकूमप्रमाणे केली पाहिजे.

११ कोणाहि ऋणको अगर त्याचे कुटुंबातील सर्व लोक यांना हे नियम लागू असून या नियमांचा कोणीहि कसलाहि भंग केल्यास तो प्रत्येक भंगावरत १०० रुपयेपर्यंत दंडाला पात्र राहील.

१२ सदरहू प्रमाणे दंडाचा हुकूम करण्याचा अधिकार कलम २६ प्रमाणे केलेल्या नियमांत ठरविलेल्या अम्मलदारांस असून, त्या नियमांना अनुसरूनच असा हुकूम करितां येईल.

[कलम २६-४-२६ खालील नियम.]

१ या कायद्याच्या अम्मलदारीसाठी जरूर ते नियम करण्याचा अगर केलेल्या नियमांत हुकूम करण्याचा अधिकार सरकारचा आहे.

२ सदरप्रमाणे नवीन नियम करण्याचे अगर नियमांत दुहासि करण्याचे काही सरकारला सहा देणेसाठी खातीलप्रमाणे कायम कमिटी नेमण्यांत जाही आहे.

१ ना. रा. व. सरन्यायाधीश.

२ ना. रा. व. दिवाण.

३ ना. रा. सा. जिल्हा न्यायाधीश.

ना. प्रातिनिधिक सभेचे वीन सरकारी प्रतिनिधि.

सदर कमिटीचे नवीन नियम करण्याचे काही सल्ला घेऊन मगच सदर नियम कायम करून प्रसिद्ध करण्यात येतील.

३ सरकारच्या गॅझेटमध्ये या कायद्याखाली प्रसिद्ध झालेल्या कोणत्याही नियमांचा अगर मूळ कायद्याचा कोणाही इसमानें भंग केल्याचें आढळून आल्यास तो १०० रुपयेपर्यंत दंडास पात्र होईल.

४ अशा तऱ्हेचा भंग या गांवासाठी ऋणविमोचनाकरितां नेमलेल्या स्थानिक अधिकाऱ्याच्या निदर्शनास येतांच, त्यावरून त्यांना चार दिवसांचें आंत मामलेदार यांचेकडे रिपोर्ट केला पाहिजे.

५ मामलेदार यांचेकडे रिपोर्ट आल्यावर त्यांनी दि. मा. सं. ऑथ यांचेकडे सदर काम चौकशीसाठी पाठवावें, व त्यानें नियमभंग केला असेल त्याला आपलें म्हणणें पुढें मांडण्याची योग्य संधि देऊन वर नियम ३ मध्ये सांगितल्याप्रमाणे डिस्ट्रिक्ट मॅजिस्ट्रेट यांना त्यात योग्य तें शासन करण्याचा अधिकार आहे.

६ दि. मॅ. यांनी दंड करण्यापूर्वी जी चौकशी करावयाची ती समरी पद्धतीनें करावयाची असून कि. प्रो. कोडप्रमाणें समरी टायलची पद्धति शक्य तोंवर त्यांनी अवलंबिली पाहिजे.

७ दि. मॅ. यांच्या दंडाच्या हुकुमावर फक्त एकच तपासणी अर्त ना, सरन्यायाधीश यांचेकडे करितां येईल.

८ अशा गांवाला हा कायदा लागू केला असेल त्या गांवांतिल ज्या इसमानें ऋणविमोचन या कायद्यान्वये झाले आहे, अशा प्रत्येक ऋणकोवर हे नियम बंधनकारक राहतील.

९ कोणाही ऋणकोची ऋणमुक्तता या कायद्याप्रमाणें केली असेल व त्यानें या नियमांप्रमाणें वागण्यांत कसूर केल्याचें आढळून असेल, तर सरकारचें मंजुरीनें त्याचेकरितां सरकार भरत अपलेल्या हप्त्याची फेड उतत्रांतून होईल इतकी स्थावर मिळकत सरकारांत हप्त्याची फेड होईपर्यंत घेतली जाईल.

१० सरकारांत घेतलेली मिळकत कोणत्याही वर्षाचा हप्ता भागविण्यास अपुगे वाटल्यास सरकारचें हुकुमानें इतर स्थावर व जंगम मिळकत लेंड रे, कोडाखाली व नियमांस अनुसरून सरकारांत घेतां येईल व ती सर्व कर्जाची फेड होईपर्यंत परत देण्यांत येणार नाही.

११ प्रत्येक ऋणकोने ऋणविमोचनाचे स्थानिक अम्मलदार ठरविलेला त्या सोसायटीचे सेवर झाले पाहिजे व त्या सोसायटीच्या नियमाप्रमाणें वागले पाहिजे.

१२ झाले लावणें, सूत काढणें, विणणें, कोंबल्या, मॅल्या अवथा गाई पाळणें या व अशा दुसऱ्या मार्गांनी आपलें उत्पन्न वाढविण्याच्या हेतूनें सरकारनें कोणास कांही उद्योग करण्यास सांगितल्यास, तसेंच सहकारी पद्धतीनें उत्पादक धंदा अगर माळाची विक्री करण्यास सांगितल्यास, तसेंच उद्योग वगैरे बाबतींत खर्च कमी करण्यास सांगितल्यास ज्या ऋणकोच्या कर्जाची फेड सरकारनें विजोरी रोक्यांनी केली असेल अशा प्रत्येक ऋणकोने त्याप्रमाणें वागले पाहिजे.

- १३ गांवातील कोणाही जमिनीच्या आरगडरणाराने आपले जमिनीत जे वी पेरण्याचे ते ग्रामपंचायत किंवा वेतले पाहिजे. खलेगीज दुसरे वी पेरण्याची मनाई आहे.
- १४ गांवातील कमतेरि संडेसलेडे गांवपंचामार्फत अगर समितीमार्फत निवाडा करण्यास सोपविले पाहिजेत.
- १५ तथा गांवांला ही योजना लागू होईल त्या गांवांत ग्रामसभा नसल्यास स्थापन करणेत येईल.
- १६ सदकारी पद्धतीवर लागवडीचा उपक्रम ऋणविमोचनाचे अंमलदर यांनी ऋणविमोचनाचे गांवी करावा.
- १७ कोणत्याही प्रकारची शिक्षा मागणाऱ्या लोकांना या गांवांत शिक्षा मागणेची बंदी करणेत येत आहे.

मंजूर वा. १-२-२७

सही सरकारची (मोर्तब)
राजेसाहेब, संस्थान ऑफ.

AGRICULTURAL DEBT
REDEMPTION AND
AFTER:

25

(BHAVNAGAR STATE)

BEING

*A reprint of an article which appeared in four
instalments in the issue of "Roy's Weekly"
respectively dated 1st, 8th, 15th and 22nd
of March 1937.*

—:O:—

1937
ROY PRINTING WORKS
90—1, IRWIN ROAD;
NEW DELHI.

*Copies can be had by applying to 'Roys Weekly'
90-1, Irwin Road, New Delhi, or to the office of
the Revenue Commissioner, Bhavnagar State,
Bhavnagar.*

X9(J).6.(228154)

97

AGRICULTURAL DEBT REDEMPTION AND AFTER IN BHAVNAGAR

—:0:—

The question of Agricultural Indebtedness is, at present, engaging the attention of various Provinces and administrations in India. Naturally, therefore, the practical manner, in which Bhavnagar has tackled this problem, has elicited inquiries from many quarters. But if the Bhavnagar experiment of wholesale redemption of Agricultural Indebtedness has attracted wide-spread public attention, even still greater curiosity has been evinced in numerous quarters, as to the after-effects of redemption, and whether the redeemed Kheduts have given up their past improvident practices. It need hardly be said that the interval, that has elapsed, since redemption was achieved, is not sufficiently long to enable a full and correct appraisal of the after-effects of the wholesale liquidation carried out in Bhavnagar.

Appraising
after-effects of
redemption pre-
mature.

For one thing, there has been a marked improvement in the State Land Revenue recoveries, which are both easier and greater than used to be the case in the past. The State does nominally enjoy priority over the claim of the private creditors. Yet in the pre-redemption days, the Darbar were more or less cheated of their legitimate dues, owing to the presence of the Sowcar element, which, in spite of all the Darbar's authority and vigilance, succeeded in making prior recoveries.

Redemption
results in easier
and better Land
Revenue reco-
veries.

Twenty-Eight
per cent re-
demption Loan
recovered up-
to-date.

Further, the recoveries towards the debt redemption loan up-to 31st October 1936, have amounted to about Rs. 5,75,000/- which is nearly 28% of the total advanced. This is not bad, considering the continued economic depression and the catastrophic slump in agricultural prices. This also indirectly testifies to the Kheduts' improved economic condition.

Khedut Pro-
tection Act—a
safeguard
against future
victimization.

One, no doubt, hears of stray cases of fresh borrowings at usurious rates. But they are very rare. As remarked by Sir P. D. Pattani, in a letter to a friend: "So long as human nature is what it is, there would be always Kheduts ready to incur debts and unscrupulous Sowcars too willing to exploit them by advancing money and entangling them in fresh usurious transactions." But some protection against such future victimization is sought to be given by the Khedut Protection Act, which has been enacted simultaneously with the practical application of the Debt Redemption Scheme.

Educative
value of Re-
demption.

Further, it is hoped that a fair percentage of the redeemed Kheduts are, as a result of the exposures of the Redemption Committees, permanently educated out of their reckless habit of incurring debts, without due regard to their capacity for repayment. This tendency to be economically more provident and circumspect, is indirectly strengthened by the Sowcar's own chariness, at present noticed to make fresh advances on any large scale. Of course it was not expected that the Sowcar's heart would change over-night; and if he has the opportunity, it is feared that he would not be any less tender in his dealings with the Kheduts. But the exposure of the Sowcar's reprehensible ways, in the course of the Committee's investigations, seems to have had, at least, a temporary salutary effect on that class; and combined with that, the Khedut Protection Act, referred to above, has provided a healthy

and much-needed check on the Sowcar's rapacity.

The Sowcar's chariness to do fresh money-lending on any great scale has, no doubt, resulted in a certain amount of inevitable hardship. But one never knows, if curtailment of credit is after all such a great calamity, as one is apt to imagine theoretically in the case of an ignorant and improvident class like the Indian Khedut who cannot be always trusted to use well and wisely any undue credit facilities, that may be available for him. Indeed, the report recently submitted to the Government of India by the Reserve Bank (Agricultural Credit Department) appears to favour restriction of credit even to the extent of withholding the right of transfer of land, if only as an intermediate stage to prevent the abuse of credit facilities for non-agricultural and unproductive purposes.

Sowcar's chariness to make fresh advances, a blessing in disguise.

Here in Bhavnagar it has been noticed that the money-lender's chariness in making fresh advances of money and the consequent curtailment of credit has resulted in a most desirable scaling down and reduction of the extravagant scale of social expenditure, in which the Kheduts formerly indulged most incontinently on festive or funeral occasions. This much-needed reform could not be brought about by mere paper-cast rules or even by State legislation, and much less by academic preaching and propaganda. But the Khedut's curtailed credit has had this result, to achieve which what are called Khedut Better Living Societies are established in British India, but which, they seldom succeed in accomplishing.

Yet, it may be granted that a small minority will again relapse into the original condition. But so far, nothing of the kind is to be noticed even in the Mahals, which were the first to be redeemed nearly seven

Kheduts in tracts passing through famine condition show greater resisting power and do not incur debts.

years ago, though some of these tracts have had, since their redemption, experience of more than one unfavourable season, the drought of the year before last being particularly very severe. In fact, it was so severe that the whole of the Revenue demand had to be practically suspended, the recovery in many villages being practically nil or not averaging more than two or three annas. Yet the Kheduts have, on the whole, come out well, without being enmeshed afresh in the Sowcar's toils. And the fear entertained in some quarters of the failure of the monsoon starting the whole sad business over again, need not be seriously entertained. The Civil Courts always provide the barometer to test the position in this respect, and so far very few suits have been filed against the Kheduts in the Civil Courts of the State, though in the pre-redemption days, the suits against the Khedut contributed the greater part of the Civil File.

Redemption
by itself not
enough.

That the Bhavnagar Darbar were never under the delusion that mere redemption of agricultural indebtedness will suddenly improve the condition of the Kheduts, will be evident from the following two extracts taken from the Committee's Report:

"Indebtedness is both a disease and a symptom. So far as it is a disease, it might be amenable to AD HOC measures designed to provide cheaper agricultural finance. But in so far as it is a symptom, the treatment must probe deeper, and the question of indebtedness must be considered and dealt along with several other cognate and connected questions. To indicate the nature of these questions even briefly would be too long a digression here. BUT REDUCED TO ITS SMALLEST PROPORTIONS, THE WHOLE PROBLEM IS OF ENABLING THE KHEDUT TO PRODUCE THE MAXIMUM, HIS LAND AND LABOUR ARE CAPABLE OF YIELD-

ING AND TO REALIZE AND RETAIN THE BEST PRICE FOR THE PRODUCE”.

(Vide page 47 of the Redemption Report).

And again the Committee stress the need of other supplementary and complementary measures in the following words:—

Need of complementary measures emphasised.

“It was felt and rightly felt that the problem of agricultural indebtedness is not one that can be rightly and separately tackled, without dealing at the same time with the whole economic life of the village. Indebtedness is, after all, a symptom, whose treatment alone cannot achieve the desired object, which is nothing less than the rehabilitation of the whole village life itself, and so the Panchayat is deliberately intended to cover more or less the whole field of village life.” (Vide page 48 of the Redemption Report).

No doubt, indebtedness has grown to such an alarming extent that its wholesale redemption had become the fundamental condition precedent to the launching of any scheme of rural upliftment. But once that object was achieved, there were other aspects of the agricultural problem, which needed to be attended to if the good effected by the preceding redemption was to be consolidated and not frittered away in the course of the succeeding few years. An attempt will be made herein to briefly indicate what these other aspects are, of the agricultural problem viewed as a whole, and further what efforts have been hitherto made to deal with the same in the Bhavnagar State.

One frequent criticism levelled at the Bhavnagar experiment of the wholesale redemption, even while it was being carried out, was that due weight was not

Uncertain future no excuse for delaying action clearly indicated by present conditions.

attached to the risks of the future, implying thereby, that unless the future can be adequately guaranteed and safeguarded, redemption was hardly worth while. The obvious reply was that the future must and always will remain uncertain to some extent. But because it was so, that could not be made an excuse for refusing the undoubted challenge of the present conditions, which cried for reform and remedy. And one thought the urgent need of debt redemption was hardly an arguable point. Indeed everybody admits the extent and intensity of agricultural debt; and still if one fights shy of undertaking redemption, it is, the suspicion arises, because of the magnitude of the problem and the huge financial outlay involved.

It might seem paradoxical, but a strange contradictory mental process appears to lie behind this attitude of inaction and hesitancy usually manifested VIS-A-VIS the debt-problem. To quote from a letter of Sir P. Pattani to a friend on the subject: "I am no psycho-analyst; but it is no uncommon experience to find that when one is either unable or unwilling to do a thing, which is otherwise worth doing, one does not always confess one's inability but by a curious psychological process, one is often apt to deceive one's self into the belief that the thing is after all not worth doing at all or that the time is not opportune for doing it. At times, I feel that a similar mental process, though not distinctly recognized, is behind the non-possumus attitude adopted towards the problem of rural debt redemption. While the subconscious mind admits the necessity of debt redemption, the conscious mind is frightened by the seeming impossibility of the task and proceeds to justify to itself its attitude of inaction and hesitancy either by denying the problem altogether or belittling its seriousness, or again by conjuring up a picture of the same conditions being reproduced in a few years after the

old debts have been once redeemed."

But as the Royal Commission on Agriculture most forcibly put it, the worst attitude to adopt towards the debt problem is to ignore it. Moreover, any action in regard to the future would have a fair chance only, after the intolerable present conditions had been first liquidated. In other words, redemption of old debts was, an essential preliminary step, as much as the removal, after an accident, of debris from the tracks of a railway. Of course, the mere removal of the debris would not immediately result in the restoration of the interrupted traffic. Nor was it expected that the liquidation of past debts could, by a miracle, establish the economic prosperity of the Khedut. Other constructive measures had to follow to complete and carry forward the work of economic recovery, for which the necessary initial conditions had been provided by first wiping the slate clean.

Redemption
an essential pre-
liminary step.

As remarked by a reviewer of the Bhavnagar experiment in the 'International Labour Review' of April 1935, the chief value of redemption carried out by Bhavnagar lies in that it will have wiped the slate and left it clean for the outline of whatever plan for the reconstruction of rural economy it is decided to undertake.

It should be stated at the outset that the Darbar lay the greatest store by the institution of Gramya Panchayat, which they are trying to revive. What is sought to be achieved through these Panchayats is described at length in the body of the Report. With a view to prevent agriculturists from getting into debt again, some advocate the enactment of strong preventive legislation intended to supervise and regulate the internal life of the agriculturist. But the Bhavnagar Darbar do not pin their faith in putting up such artificial dykes to prevent the

legislative enact-
ment to prevent
Kheduts from
falling into debt
again.

floods of indebtedness from again swamping the redeemed Kheduts. However well-intentioned such legislation may be, the difficulty in their practical enforcement are not always duly and properly considered. Such an attempt to regulate the internal life of the subject, even if it does not actually do more harm than good, will undoubtedly lead to undue harassment on occasions, however vigilant and well-meaning the supervising authority may be.

Best safeguard for future would be to build up an economically self-reliant community through Gramya Panchayat

The Bhavnagar Darbar prefer to trust to the slower educative value of a self-governing institution like the Gramya Panchayat. When the same is fully developed, it will, it is hoped, not only be economically strong, but the prevailing public opinion in it will also provide an effective moral check against thoughtlessness and thriftlessness and the too ready tendency to run into debts. But the full development of such a strong and self-reliant community must in the very nature of things be a very slow process.

These Gramya Panchayats are rapidly multiplying. Only four years ago, the number did not exceed half a dozen, and now in all 84 villages are in enjoyment of village autonomy, and applications are received from 55 more villages for the extension of Gramya Panchayat to them. Even at the risk of repeating, it will be worth while saying that apart from any other direct and indirect benefits of Gramya Panchayats, its chief value lies in building up village consciousness, and making the village-people think for themselves, and stimulating greater interest in matters of common well-being.

Liquidation of rural illiteracy

It is easy to exaggerate the effects of illiteracy, for though illiterate the Indian Khedut is in the sense that he does not know the three "R's", he has in the opinion of competent observers more practical common sense than

the average English farmers, although the latter may read his daily paper and scriptures on Sunday. As remarked by a newspaper correspondent, an average farmer in India may be a fatalist in most things even to an unhealthy extent, but he has generally common sense and patience and habits of industry and thrift of a rare degree. But there is no denying that he is lacking in education, and when this hiatus is filled, he should without doubt prove an enviable specimen of agriculturist, equal to his compeer in any part of the world.

The price, the Khedut has to pay for illiteracy and ignorance, is very heavy, as will be seen by the higher rates of interest which a backward class like the Kolis are subjected to, compared with the easier rates which Kanbis in the same village ordinarily pay.

In this connection the following remarks occurring in the Committee's Report will be read with interest:—

“Though the scale, on which Kanbis incur debts is much larger than is the case with Kolis, the former enjoying much higher credit and his wants also being comparatively greater, yet the Kolis as a class are subjected to a much higher levy by way of interest, premium etc., for their borrowings. This is seen by contrasting the varying rates of interest prevailing in Kanbi and Koli villages, and the different rates charged in the same village by the same Sowcars to the Kanbi and Koli Kheduts respectively. For instance, in Ghanghli, good Kanbi Kheduts can obtain their monetary and other supplies on credit by paying 6 to 12 per cent interest only, while a Koli Khedut has invariably to pay Savaya premium; and further occasionally the Savaya Khata is subject to renewal every Khala season, on failure of payment. In other words, the bond may be renewed twice or thrice in the year,

25 % premium being added each time. This practice of what is popularly known as Mol-Savaya prevails in Bhangadh, in which all the Kheduts are Kolis. Where the loan is not subject to Mol-Savaya increase, the Koli Khedut in Ghanghli has to pay interest at the rate of half an anna per rupee per month, which works out at a rate of 37½% per annum. Again in Sedarda, the Kanbis generally pay 9 to 12 per cent interest only, while the Koli borrower pays 18½% interest, even when the loan is secured by a pledge of ornaments."

The conclusion is inevitable that the greater the illiteracy of the Khedut, the more complete is his dependence upon the Sowcars, resulting in proportionately greater exploitation, and where the intensity and extent of indebtedness is thus directly traceable to ignorance and backwardness, one effective way of checking indebtedness in future would no doubt be through popular enlightenment by means of education.

As Sir Prabhasker Pattani said in the course of a speech addressed to the Kheduts assembled on the occasion of opening the Patel House in Bhavnagar, when the announcement of remission of revenue arrears was officially made:-

"Please do not think your goal has been reached now that you have got the money and are free from Darbar Debt. All this is fruitless without the right kind of education and an uneducated and short-sighted prodigal will easily squander away his father's fortune even though it may amount to rupees one lac."

If the Indian Khedut is proverbially improvident and short-sighted, the same is in no small measure due to his

utter ignorance and illiteracy, which prevent even a dim realization on his part of the accumulating load of interest and other charges, to which he makes himself liable in respect of an initial small debt not paid off in time, not because of incapacity but simply owing to carelessness and ignorance. The Committee came across numerous instances of originally small debts allowed to be accumulated to huge proportions, simply owing to the Khedut's initial blunder or carelessness in not liquidating his liability, when he could have done so easily. The Committee in this connection has very properly remarked in the course of the Evidence Notes, that instances of this kind indicate the necessity of properly educating up the Khedut to the great risks he runs in postponing payment of small outstandings, and even of using some moral compulsion to induce him to repay in time. Both these factors will be present in a way, when the lending agency is either the State or a co-operative society.

But of course, unless and until the Khedut has learnt the three "R's", he can never realize the great risks he runs, in postponing repayment of a loan, which he easily can. It is indeed sad to think that even in villages having a school, boys of the Khedut class are not seen to take full advantage of the available facilities for education. But it is encouraging to know that where a village goes in for Gramya Panchayat, generally the first reform it asks for is the establishment of a village school in its midst.

As a rule, new schools are opened in villages having a population of 500 and more, but an exception has been made in favour of a Gramya Panchayat village, where a school is established, even though the population be less than 500. This will in a way quicken the pace, at which illiteracy is being liquidated—illiteracy which is considered the Sowcar's strongest ally in his exploitation of the igno-

rant and improvident Khedut.

Further, it is satisfactory to note that the Gramya Panchayat villages are seen, compared to the non-Panchayat villages, to be more prompt and regular in the collection of Land Revenue, for which they are responsible without the intervention of a Thandar. This only shows that the trust reposed in these villages has on the whole been well-repaid.

Dealing with the prime originating causes of indebtedness, one frequent and fertile source of debt is the unduly high scale of social expenditure referred to above.

Intelligent
Khedut castes
keen on regula-
ting scale of
social expendi-
ture.

In this connection, it is satisfactory to note that the Kheduts here are getting alive to the necessity of regulating the scale of their social expenditure, if necessary, even through State intervention. It would be worth while quoting here in extenso, the remarks on the subject, occurring at page 42 of the Report of the Original Committee:—

“There are many sensible members in such communities (e.g., Kanbis, Pancholis, etc.), who are keenly alive to the tyranny of caste customs and social conventions, which compel them to indulge in extravagant expenditure and even to incur heavy debts for doing so. To escape from such tyranny they have attempted to regulate the conduct of the caste-members, by making rules and bye-laws. But lacking the necessary sanction, the rules and regulations are obeyed more in the breach than in observance; and one is not sure but the caste people would welcome, in such matters, even State legislation; and where a definite opinion to that effect is found to exist in the caste, the State should not hesitate to undertake and enforce suitable legislation under proper safeguards.”

There is an important Khedut caste here called the HARAKS. They are hardy and industrious and they supplement their income, by each maintaining a large number of buffaloes. But in spite of their industry and good earnings, they were being ruined by their extravagant scale of expenditure on ceremonial occasions, like marriage, vargharna (re-marriage), Ana (ceremony of sending the married daughter for the first time to her husband's), etc., etc.

Khara ks demand and obtain legislative sanction for enforcement of caste rules.

To escape the tyranny of this conventional expenditure, the Kharaks voluntarily applied for and have obtained legislative sanction to their caste rules, providing a prescribed scale of expenditure for the different social occasions. A breach of the rules will entail a fine, which the Mahalshahivadar (District Revenue Officer) concerned will help recover, as Darbar dues, from the guilty party and hand over to the caste-Punch. This sanction provided by the State, has prevented extravagance among the Kharaks, which had grown in recent years to a most alarming extent.

Of course, imposing social reforms from outside, is seldom advisable and practical; but again to quote the words of the Committee's Report: "The framing and publication of these rules and regulations, in a way indicate the need and also the preparedness of the caste concerned to undertake social reforms by means of State aid and intervention; and it is up to the State to provide the necessary legislative sanction, in the absence of which, these caste-rules have so far remained a dead letter and have no more significance than the expression of a pious wish."

The example of Kharaks shows that action on the part of the State to enforce caste rules is not always unwelcome and, at times, such State action seems to be the only way of saving from themselves intelligent and hardy castes of

Kheduts such as Kanbis, Palewals, Pancholis, Kumbhars, to name only a few. For they unaided and by themselves, inspite of paper cast rules, are unable to resist the tyranny of the prevailing caste customs and conventions.

Tagavi advances on liberal scale to meet bonafide agricultural needs

There has been no intention to oust the village Sowcar nor would it be possible to do so. At the same time, in order that the Khedut may not be unduly exploited when he has occasion to borrow for his bonafide agricultural needs, Tagavi advances are granted by the State on a very large and liberal scale either without charging any interest at all, or in the case of advances of very large amounts loaned for costly agricultural improvements, charging very moderate rates of interest. Usually more than a lac of Rupees are advanced for seed-Tagavi alone, during the sowing season annually, for which no interest is charged. Further a grant of Rupees fifty thousand is provided to be advanced to the needy Kheduts, for the purpose of deepening old wells and digging new ones, and for purchase of bullocks and sugarcane-seed. Besides making Tagavi advances in normal seasons, as described above, special amounts are sanctioned to help the Kheduts in tiding over a particularly difficult period of distress. For instance, some two years back, about seventy villages in the two Mahals of Kundla and Lilia paying an annual assessment of Rupees six lacs and more were subjected to the effects of a most severe drought. The State first suspended the whole of the revenue demand, and later remitted nearly 75% of the suspended revenue. Further, the Darbar sanctioned a special amount of Rupees one lac five thousand for different kinds of Tagavi, such as seeds, food-grain, purchase of Mohhtas, grass etc.

The whole of this amount was remitted, provision for the same having been made from the accumulated interest of the Cultivators' Amelioration Fund, established by the

far-sighted wisdom of his Highness the late Maharaja Saheb to celebrate the birth in 1912, as heir apparent of the present Maharaja Saheb His Highness Krishnakumarsinghji after whom the said Fund is named.

The burden of old debts was the chief stumbling block to the progress of the co-operative movement. But the ground having been cleared by wholesale liquidation; attempts are now made to push on and multiply Agricultural Credit Societies. These societies and the liberal Tagavi advances referred to above, between them, it is hoped, will go a long way to meet the bonafide agricultural needs of the Khedut. The State advances to each of the societies, an amount equal to the amount collected by it; but not exceeding Rupees two thousand at 3½%, and further makes a free donation of 20% of the deposits collected by the members not exceeding in any case Rupees four hundred. Altogether the State loan advanced to these societies amounts to Rs. 1,05,750/- and the donations total Rs. 20,389/-. The loan is being recovered in fixed easy instalments. It bespeaks the slovent condition of the societies, that hitherto there has been no default in payment of the State instalment dues.

Removal of old debts paves the way for healthy development of co-operative movement.

In British India and elsewhere, the agrarian problem is further complicated by the fact of there being an intermediary superior land-holder and occasionally several grades of them between the Government and the tenant, the actual tiller of the soil. This luckily is absent in Bhavnagar, where the tenure of the holding is subjected to the condition of the holder carrying on agriculture on his own. He has no free right of sub-letting except with the previous sanction of the District Revenue Officer under prescribed conditions and for a limited period only.

The occasion of the investiture of His Highness the

New right of sale and inheritance granted.

Maharaja Sahab with full powers six years ago, was made memorable by conferring on the Darbari Kheduts, the right of sale and the recognition of all legal heirs and successors in respect of their holdings. The new right conferred will have, it need hardly be said, the effect of liquefying and making available for the Khedut's immediate use, what were up till now merely frozen assets for the Khatedar has had ere now no transferable interest in his holding, which was further liable to escheat to the Darbar, when there was a failure of male heirs in the direct line.

Of course, it would be next to impossible to exactly assess the amount, by which the value of the Kheduts' assets have been increased, but the total Darbari land under Khalsa Vahivat amounts to about 18,00,000 Bighas, and at a moderate calculation, taking the average price of a Bigha to be Rs. 10/- the new right of sale, it may be legitimately claimed has added to the value of the Kheduts' assets and increased their credit by anything from 1½ to 2 crores.

New right restricted to transfer interest to prevent land passing into non-agriculturists' hands.

The new rights of sale and inheritance, will, it is expected greatly intensify and strengthen the Khatedar's natural attachment to the soil, and his increased credit will enable him to carry out on his own, any costly permanent scheme of agricultural improvement, which he may desire to undertake.

At the same time, it is to be hoped that this large, sudden and unexpected accession to the value of the Khedut's assets and his credit will not demoralize him by instigating an inherent tendency to incur debts recklessly. Some check against such an untoward result of a well intentioned boon is provided by restricting the right of transfer of holdings, only among those who are themselves bonafide cultivators. This seeming restriction of the right

to freely deal with their holdings is, it hardly needs saying, very necessary in the Khedut's own interests. In other places, where the ryot enjoys an unfettered and unrestricted right of sale, it has resulted in the land passing, in an ever increasing measure, out of the hands of the cultivating classes into the hands of capitalists and absentee landlords, who are merely interested in rack-renting. This has led to a steady deterioration of the soil and to reduction of the cultivators to the position of mere tenants-at-will or landless labourers.

The evil result of undue fragmentation of holdings has been attracting attention everywhere, and though the tendency in this direction is not still marked in the Bhavnagar State, it is not altogether absent, as will be seen from the following remarks made in the course of the Committee's Report as regards the village Bhadrod under Mahuva:- "Bhadrod is a big village, and one or two points, which came under observation in connection with it, may be noticed here, as being typical and also as having more or less a direct bearing on the economic condition of the cultivator. The majority of the Bhadrod Kheduts are Pancholis, a hardy and intelligent class of cultivators, next if at all to the Kanbis only. Their original Khata-holdings were fairly large and economic. But with their progressive sub-division among the heirs and successors of the original holders, the tendency towards fragmentation and uneconomic holding is on the increase; and the numerous and growing Khedut population has so increased the pressure on land that several hard cases were noticed, in which good bonafide cultivators, simply because their holdings were too small to fully occupy them, were driven to eke out their slender agricultural income, by plying carts on hire, farming the fruit-crops of mango and Gunda trees belonging to others and even by manua labour.

Prohibitory
order against
under fragmen-
tation.

It is hoped that the evil of the sub-division of holdings tending to make them uneconomic will be more or less effectively stopped by the recent orders, which prohibit both undue fragmentation and also transfer by sale or otherwise of a part of a holding, where the area of such holding is less than a prescribed number of Bighas.

Greater elasticity introduced in land revenue collection.

The rigidity in making revenue recoveries has been criticised, and, no doubt, it is at times responsible for Khatedars incurring debts. Efforts have been made to relax this rigidity in two ways in recent years: one is that the general anna levy for arrears is fixed for the whole village having regard not to the condition of the well-to-do Kheduts, but, that of the middle and poorer class of Kheduts. In other words, this levy would be moderate enough to be easily payable by almost all the Kheduts of the village. But it may be taken that there will be other Khatedars, who are able to pay over and above the general anna levy fixed as above. In their case, the local Vahivatdar will fix a sum to be paid by the individual holder towards the balance of his outstandings. This individual levy, as it is to be determined by the local Vahivatdar, may subsequently be raised or reduced by him, to suit modified conditions, should they come to pass.

Another measure of elasticity adopted is that KIST dates are not always rigidly adhered to, and almost every year special authority is given to the Divisional Assistant Revenue Commissioners, to extend the period for the payment of instalments so as to suit the varying requirements according to the different seasonal conditions of Mahals, Tappas or even villages, as the case may be.

Grass stored and stacked in depots to meet emergency.

With the tendency to grow money crops excessively such as cotton, ground-nut, etc., the Kheduts generally are unable to store sufficient fodder for maintaining their cat-

tle, and a delayed monsoon or an unduly prolonged break during the rainy season finds the Khedut much short of his fodder stock. The State with a view to help the Kheduts, when he has thus run short of his stocks of grass and Kadbi, stores in suitable centres between 3 to 4 crore lbs., of grass. Only last year, when the rains held off for more than a month and a half between July and August, the Darbari Stores were, at short notice, able to supply about 5000000/ lbs., of grass to the cultivators on credit. Without such timely assistance, the Kheduts owning large herds of cattle would have been completely stranded and would have had to run into debt to purchase the needed stock of fodder for maintaining their cattle.

So far mostly legislative or administrative measures, ^{Cattle improvement.} which as best can render only negative outside help, have been mentioned. Coming to more positive steps taken to improve the economic position of the Kheduts, cattle improvement takes the foremost place, both in view of its importance and the quick results, which can be obtained by only a slight effort intelligently directed. No doubt, the recent Viceregal appeal has given a great fillip to the campaign for cattle improvement. But this vitally important matter has engaged the attention of the Bhavnagar Darbar for the last five years and more. The chief obstacle in bringing about the desired improvement was the age-long semi-religious prejudice against castration. But this prejudice was now out of date and altogether unjustified, in view of the almost painless and innocuous method of castration provided by what is known as the Birdizzo method and it is satisfactory to note that a little persuasion followed by actual oracular demonstration of the operation by the Birdizzo method, succeeds in overcoming the prejudice, and most Kheduts now willingly allow their young male calves to be castrated. For this, a special staff of Birdizzo operators is employed, who have carried out 8,624 castrations.

2) AGRICULTURAL DEBT REDEMPTION AND AFTER

Particular care is taken to remove the roaming so-called Mahajan bulls, which are not a little responsible for the deterioration of the famous indigenous Gir breed, which is both a good draught and milch-animal. Along with the elimination of the useless scrub bulls, arrangements are made for supplying to the villages, good reliable pedigree bulls for breeding purposes. The number of bulls maintained for service now stands at 84. The difficulty at present experienced in obtaining really good reliable bulls of indigenous breed can be met by establishing local breeding farms, which would ensure a continual supply of such reliable breeding sires. Proposals for establishing two such breeding farms have been submitted and are under the consideration of the Darbar.

Apart from any extravagant expenditure, the Khedut may indulge in on social occasions of marriage etc., the costliest item in his agricultural budget is that relating to the purchase of bullocks. According to the last quinquennial Cattle-Census, the Bhavnagar agriculturists own in all 82,426 bullocks. Taking the average working life of a bullock to be ten years, in order to keep up the working strength of these 82,426 bullocks, it would be necessary to replace 8242 worn out bullocks with fresh ones every year. Even if we calculate the average price of a bullock to be Rs. 50/-, a sum of Rs. 4,12,300/- that is more than 4 lacs are, it may be taken, being annually spent by the Bhavnagar farmers for buying their agricultural live-stock. All this amount could be saved, if the Kheduts take to raising their own stock of required bullocks, by each of them maintaining a cow or two, which they can easily and cheaply do. The cultivator, then, will not have to grovel before the money-lender for a loan of money nor depend upon the Sindhi bullock-trader for his agricultural power-unit. Further, the stock, which the Khedut will rear at home, will be much superior to what money can buy for him. In the

villages, where the breeding sires have been maintained for a couple of years, there has been both a noticeable improvement in the new progeny and also a marked decline in the number of Kabalas (agreements entered into with Sindhis for the purchase of bullocks).

Allusion has been made before to the Cultivators' Amelioration Fund, and the grant from its accumulated interest of free liberal help on occasions of drought and famine. But apart from such occasional and very necessary use of the Fund to meet the emergencies of flood and drought, the Darbar were considering the feasibility of applying the accrued interest in a way that, while permanently benefitting the Khedut, would also better enable him to resist the recurring exigencies of complete drought or partial failure of the monsoon. And after much anxious thought and deliberation, the Darbar came to the conclusion that in the peculiar circumstances of the Indian climate and especially with such scanty and precarious rainy seasons as we are experiencing in Kathiawar, the best insurance for an agriculturist against a treacherous monsoon would be to have permanently made available for him the means of well-irrigation. This was the more so, in the Bhavnagar State where there are no large irrigation-works nor is there much possibility of such works being undertaken in future.

Many old wells having good under-ground supply of water had fallen out of use, simply because they were Kacha and the falling earth from the sides had either made their use impossible or very difficult and dangerous without great initial and annually recurring and increasing outlay of labour and money, which would be prohibitive in many cases. Accordingly, it was decided to first turn attention to these old wells having reliable underground water supply; and Rs. 75,000/- were sanctioned last year for

Cultivators' Amelioration Fund utilized in providing Pacca built wells for raising irrigated crops.

Rs 79,506/- spent in one year in pacca construction of 213 wells.

building Pacca the old dilapidated wells of the above description in the Dhassa Tappa of Umralla Mahal. Besides such a concentrated programme of construction of old wells in one sub-district, Rs. 20,000/- more were sanctioned for the building of such wells in scattered parts of the State. Out of this amount sanctioned as above, Rs. 62,161/- were spent in Dhassa Tappa, for the Pacca construction and renovation of 162 wells and Rs. 17,345/- were spent in the construction and renovation of 51 wells in different parts of the State.

Rs. 80,000/-
sanctioned in
1937 for renova-
tion of wells in
Gadhda Mahal.

Further for this year, Rs. 80,000 have been sanctioned from this Fund for the Pacca construction of old wells in another Mahal of the State viz. Gadhda Mahal.

The whole of the amount required is first provided by the State from the interest of the Fund mentioned above. Half of the amount is debited to the account of the cultivator concerned and is to be later recovered from him in easy instalments and the remaining half is written off as a gift from the State.

Superior value
of hand-ginned
cotton seed
compared to ma-
chine ginned
cotton seed for
sowing pur-
poses.

Efforts have been made for some years to encourage hand-spinning and hand-weaving as a subsidiary industry by means of special expert staff. Hand-ginning is also being popularised because cotton seed from the hand-ginned Kapas has a much higher seed value than the machine-ginned cotton seed. Besides, a much smaller quantity is required for sowing, where the hand-ginned cotton seed is used, which means a considerable saving in the large outlay usually required for the purchase of seed.

One would think that from practical experience no one would more greatly understand and appreciate the need of good and pure seed than the Khedut; but the careless way in which many Kheduts set about to obtain seed at

the eleventh hour when the sowing season is overdue, makes one almost doubt whether the Khedut after all understands the value of good and pure seed. Perhaps this apathy of the Khedut is partly explained by economic poverty. But no effort should be considered too great to ensure the continuous supply of the right kind of seed, and as a practical means to achieve this object, hand ginning is invaluable. It is not suggested that the Khedut should hand-gin the whole of his cotton produce, but he should be encouraged to retain a sufficient quantity of picked cotton from his own field, that would suffice to yield the required quantity of pure seed and also supply the clothing needs of his family.

If the yield of agricultural land is not so great as one might wish, it is in no small measure due to the deficient and defective manuring of the soil. One effective way to raise agricultural produce is obviously better manuring of the soil. As an instance in point may be cited the following example, that casually came to the Committee's notice in village Mandal of Victor Mahal. One Khoda Bharu, the Patel of the village, was able to raise one Kalsi of wheat for every two Bighas of Jirayat land, while in the case of other cultivators of Mandal, six to ten Bighas were required to yield the same quantity. This marked difference in the crop yield in regard to soil of the same nature is accounted for by the better manuring of his land by the Patel, who was able to purchase and cart manure from distant villages, while the poorer cultivators could not afford the necessary outlay.

But so long as cultivators are addicted to the habit of using cowdung as fuel, there will never be enough manure to go round and supply the needs of all Kheduts. All Kheduts cannot afford the expensive chemical manures; nor are they one quarter as efficacious, it has been proved

Defective and
deficient manur-
ing.

Kheduts en-
couraged to
grow more trees
to provide al-
ternative fuel
and thus save
all the cowdung
for manure.

beyond doubt, as farmyard manure. The effect of chemical manures is exhausted in a year or two, while the soil fertilized with farmyard manure continues to give better crop yield over a number of years—ten years and more. One way to make larger quantities of farmyard manure available is to wean the cultivator from the age long habit of using up cow-dung as fuel and burn wood instead. At present only the excreta of the cattle stock during the four months of the rainy season, when owing to the wet weather, dung cakes could not be dried for lack of sufficient sun-shine is available for purposes of manure, and practically the whole of the animal excreta of the remaining eight months is consumed as fuel. But before cultivators will readily take to wood for fuel purposes, it is necessary to arrange for an ample and cheap supply of that commodity.

Afforestation
of waste land

One of the ways to make such a supply available is to encourage the cultivator in every possible way to utilize the waste or salt part of his holdings, which it would be profitless to cultivate and the boundaries of his field for the purpose of growing babul and other trees thereon. Another measure indicated is the afforestation of suitable areas (i.e. growing and maintenance of small 'Kants') in the neighbourhood of villages, which, besides providing additional grazing facilities, would also help to increase the available supply of cheap fire-wood. With a view to find out such suitable areas, even a special AD HOC survey might be ordered. Babul trees would also supply the necessary wood for agricultural implements, which, it is becoming increasingly difficult to obtain in these days.

The afforestation of suitable areas, apart from increasing grazing facilities and cheapening the supply of fire-wood, might to a certain extent, tend to increase the average rainfall, if denuding the land of trees and increasing encroachment on forest areas, are responsible, as it is

held by many, for the diminishing and precarious rainfall of recent years.

The recent order exempting trees standing on Khata land from Chauth levy, and conferring full rights of ownership in regard to trees standing on Khata land, will, it is hoped, encourage the growth of more trees by cultivators. Efforts are also made to stimulate the planting of new trees every year by persuasion and suitable propaganda through the Revenue Department.

Incidentally, the use by the Kheduts of carrion as manure will, while partially meeting deficiency of that article, also assist the efforts made to wean the untouchable classes from their age-long habit of carrion-eating. Untouchability cannot be rationally justified, but if the popular feeling is analysed, it will be seen that the prejudice against the untouchable classes is mainly traceable to their singular habit of carrion-eating, which is nowhere else to be met with even among the meat eating people. So it naturally follows that the strength of the popular prejudice will be greatly reduced, if the so-called untouchables are somehow made to give up this habit of theirs. But old habit dies hard, and further unfortunately their hereditary Chamars' profession i.e. that of the skinning of the carcasses of dead animals, which these classes ordinarily pursue, makes carrion so easily available to them, and that without cost, that the members of their class find it naturally hard to resist the temptation of eating carrion, to which they have been addicted for generations past. But if our Kheduts learn to use the meat of dead animals as soil fertilizers, they will not only thereby be able to make good the deficiency of farmyard manure, but also in no small measure reinforce the efforts at self improvement of these so-called untouchable classes. For the Kheduts' use of carrion as manure will make it a marketable commodity,

Use as manure of meat and bones of dead animals advocated with the double object of making up deficiency in manure and weaning the untouchable classes from their insanitary habit of carrion eating.

and when carrion is seen to fetch a price, it will automatically counteract the temptation to use it as food. So with a view to simultaneously reform the untouchables of their old habit of carrion eating and to make the same available, as manure for the cultivators, the Darbar auctions the Bham Ijaras (Monopoly of skinning the carcasses of dead animals) of Kasba towns, with the condition attached of not using carrion as food, even though such a course involves sacrifice of revenue. In some places, Kheduts have been found willing to make use of carrion for manure.

Just like carrion, bones are also very valuable manure, but they first need to be converted into bone-meat. The cost of carrying the bones to a factory and then fetching the bone powder or meal back to the village would be almost prohibitive. But if the bones are just scorched without being burnt to charcoal (which latter would destroy its most valuable parts), the bones would become very friable and then could be easily crushed and powdered so as to make them immediately fit for use as manure. In some villages, Kheduts have begun to collect the bones and use them for manure in the way above described.

Better conservancy arrangements will improve situation and add to the available quantity of manure.

Conservancy arrangements are never satisfactory in our villages. People ease themselves in public places in a most insanitary manner. If they can be induced to collect the night soil for manure, it would kill two birds with one stroke, as it will make more manure available and also improve the village sanitation. Efforts are made to improve sanitary arrangements in villages on these lines.

Propagation of better & more profitable methods of cultivation.

It would be too long to detail here several agricultural improvements, which Kheduts are being induced to adopt by means of suitable propaganda and demonstration plots arranged by the Agricultural Department.

A passing reference, however, may be made to (1) the bunding of fields to conserve moisture; (2) better and more scientific collection and preparation of manure; (3) insistence on winter tillage and (4) the observance of proper spacing in the sowing of crops so as to allow the plants to obtain the maximum nourishment from the soil and ample space for the fullest growth and development. These are simple reforms easy to carry out but very promising in their results.

Especially the last mentioned reform in the spacing of crops, if generally adopted, will not only mean a larger crop yield but also a considerable economy of manure and labour. For, it will then be unnecessary to sprinkle and broadcast the manure in the fields as has to be done at present so as to reach the too closely sown crops. This results in a considerable wastage of an article, whose supply is very limited. But if the furrows are properly spaced and separated from each other by three to five feet, then only the furrow trenches would need to be manured. This will not only economise manure but also ensure the maximum benefit being derived as the manure having been put in the furrows, will better tend to preserve its active essential elements, which either are destroyed or greatly lose their efficacy owing to being exposed to sun and wind, when the manure is only scattered and thrown about as is being done at present by most Kheduts. Further the widely separated furrow will draw to themselves the run-off of the monsoon water from the unploughed intervening spaces, helping greater retention of moisture in the parts of the fields actually sown and thus enabling the raising of the crops with a smaller amount of rainfall. Lastly, the intervening unploughed spaces being left fallow will be rested and renewed and be better fitted for cultivation next year. This matter has been detailed at some length even to the point of weariness, for the reform advocated is simple

and can be carried out at a small cost or rather at an actual saving of cost and labour.

Similarly the ploughing and preparation of field during the winter immediately after the Kharif crops are harvested about Dewali, would enable full absorption of cold and heat by the turned-up soil; and this would even partially compensate for deficient manuring and give, it is claimed, anything from 50 to 100 per cent richer crop yield.

Unsafe to copy
wholesale
foreign meth-
ods without
considering
their suitability
to local condi-
tions.

Before concluding, it would be worthwhile drawing attention to the prevalent obsession to adopt wholesale foreign methods without properly considering their suitability to local conditions. Of course, no one deprecates scientific research or the study of successful foreign models; but at the same time, if one's mind is too much preoccupied with what one may have seen outside, one is apt to think only in terms of such experience and advocate its adoption indiscriminately, even though the same may not be applicable in the Indian conditions. The way in which tractor-ploughing is widely recommended furnishes an instance in point. But only a couple of months ago, the then Revenue Member of the Punjab was obliged to confess to the Government Expert from Delhi that tractor-ploughing was unsuitable in the agricultural conditions obtaining in the province. But it would be interesting to know how long it took to find out this obvious truth and how many costly tractors were purchased and attempted to be put into use before their unsuitability was discovered and established beyond doubt.

The correct mental approach to the local problems should, it is submitted, be free of any bias or predilections of any kind, and if the mind thus freed, is brought to bear on a conscientious study and observation of the local conditions, the natural remedy best suited will be automatically suggested. But all this is only by the way.

This note is so to say a retrospect and stock-taking of the situation as it stands today after the Redemption of Agricultural Debt was carried out in Bhavnagar. Incidentally, the opportunity has been taken to survey the agricultural problem as a whole; for, as stated at the out-set, mere redemption, though an essential preliminary step, is by itself not enough. In a way, it barely touches the fringe of the complex problem, whose proper solution demands simultaneous action on a wide extensive front. At the same time, the complexity of the problem and the admitted need of other supplementary measures should not make one shy at undertaking redemption, which is a *sine qua non* of all other reforms to follow—reforms which would have no chance whatsoever, while the cultivator was weighed down by the crushing burden of past debts. But once this dead-weight is lifted it would recreate the cultivator's interest and enthusiasm now all but lost, and release new stores of energy, which could be harnessed for carrying out other desirable and necessary measures of reform and reconstruction.

In surveying the agricultural problem, it has been necessary to deal with even seemingly small matters which, though directly concerned with the economic amelioration of the Indian cultivator are apt to be overlooked just because they are small and minor. At the same time care is taken to concentrate attention on such simple broad reforms in agriculture and rural life as could be easily carried out without outside help and at only a little extra cost and labour, if any.

Naturally, the conditions obtaining here have been principally before the writer's mind, but one may take it that the rural and agricultural conditions, allowing for local variations, would be much the same all over the country, and what is stated herein, will *MUTATIS MUTANDIS*

apply equally elsewhere.

It is man's to
try: it rests with
God to give
success.

Most of the measures of reform indicated above have been either adopted or are in course of adoption in the State to conserve and consolidate the good work done by the preceding Redemption. All the same, the future which always lies on the knees of the Gods must to a certain extent remain uncertain. But if only man honestly puts forth the best efforts, he is capable of, the same, it is hoped, will receive God's blessings and fructify. Bhavangar's motto is *Manushya Yatna Ishwar Kripa* (It is man's to try it rests with God to grant success).

Bhavangar,
17th February, 1937.

} N. M. S.

N. M. Surati
Revenue Commissioner

**NOTE SHOWING THE POSITION IN REGARD TO FRESH
DEBTS INCURRED BY BHAVNAGAR KHEDUTS SINCE
WHOLESALE REDEMPTION OF AGRICULTURAL
INDEBTEDNESS WAS CARRIED OUT.**

1937

X9(V):6: (2281584)

G)

Note showing the position in regard to fresh debts incurred by Bhavnagar Kheduts since wholesale Redemption of Agricultural Indebtedness was carried out.

Pursuant to instructions received from Sir P. D. Pattani, K. C. I. E., President, Council, of State, Bhavnagar, a rapid and general survey of the villages was made, with a view to find out, how far the position achieved by the preceding wholesale redemption of agricultural debt has been maintained in the subsequent years and to what extent, if any, there has been a relapse into the old condition of indebtedness. The investigations of the local Thandars supervised by the Vahivatdars, have brought out the gratifying fact that the improvement brought about has, on the whole, been kept up, and that out of the total of 29,973 individual holders, only 1,885, i. e. about 6% have incurred fresh debts totalling Rs. 2,40,613/-. The total nominal indebtedness liquidated under the Redemption Scheme, amounted to the huge figure of Rs. 86,40,233/-.

Varying periods of from 4 to 8 years have elapsed since redemption was carried out in different parts of the State, and yet during this fairly long interval, though large tracts of the State had to pass through more than one very unfavourable season, the Kheduts may be said, on the whole, to have come out well; for the total debt as found by the latest investigation does not exceed, in round figures, Rs. 2,50,000/-, which is barely 3% of the old total debt of Rs. 86,40,233/- liquidated.

Further, most of these borrowings are in respect of current miscellaneous purchases for domestic use, which are repaid during the harvesting season. This will be made clear by taking a concrete instance. In

Botad Mahal, the figures of debt were first collected in the month of ASO Samvat 1992, corresponding to the month of October 1936, when it was found that 244 Kheduts were indebted in a sum of Rs. 42,781/-. The same villages were again surveyed by the Vahivatdar 6 months later, when it was found that Rs. 42,781/-, the amount of debt returned by the first inquiry had shrunk to Rs. 19,044/-, and the Vahivatdar explains the difference by stating that the reduced indebtedness was the result of the larger part of the borrowings, mostly for items of domestic use, having been repaid in the interval.

Considering the situation from another point of view, one finds that out of the total number of 540 villages in the State, as many as 337 villages i. e.—about 62% continued to be totally debt free; of the remaining 203 villages returned as indebted, in the case of 49 villages, less than 5% of the Kheduts are found to be indebted, and in the case of 51 villages, only 5 to 10 percent of the Kheduts are seen to be in debt, and in 65 villages, 10 to 30 percent Kheduts are indebted. Only in 28 villages, more than 30% of the Kheduts are found to be indebted, while there are only 10 villages, in which the percentage of indebted Kheduts exceeds 50%.

The Civil Courts always provide an unfailing barometer to test the position in this respect, and from the figures abstracted in the accompanying table, it will be seen that in the fairly long interval of 4 to 8 years, that has elapsed since redemption, comparatively a very small number of suits — and the majority of them for petty amounts—have been filed against ryots in the State Courts, though in the pre-redemption days, suits against agriculturists contributed the greater part of the Civil File.

Further cases of harsh and usurious dealings at exorbitant rates of interest are rare, though it must be admitted that they are not altogether absent. These cases have been particularly noticed in the tracts inhabited by backward and ignorant classes of Kheduts, such as Kolis, Iyers, Kumbhars, etc.

Analysing the originating causes of debt, the majority of borrowings, where they do not relate to domestic items of expenditure or agricultural requirements, are in respect of undue expenditure entailed by caste custom, on occasions of betrothal, marriage, death, ghargharna, etc.

Several Khedut castes have become alive to the need of regulating the scale of social expenditure, by enacting special rules in that behalf. In fact some castes have adopted such rules for years past, but in the absence of necessary sanction, they are more obeyed in their breach than observance; and following the example of the Kharak caste, who have voluntarily obtained legislative sanction for their caste rules, other Khedut castes, such as Palevals, Rabaris and Kolis have expressed their desire, after meeting in conference, to have their caste rules controlling expenditure on social occasions, recognised by the State. The administration of these caste rules rests, in the first instance, with the caste concerned. It is only when a breach of the rules occurs, and the Caste-Punch decide to request Durbar's help for enforcing the prescribed penalty, that the State intervenes. Registration and recognition by the State of such caste rules will, it need hardly be pointed out, make them more effective and of greater practical benefit than they have been in the past.

To lessen the Khedut's dependence upon the Sowcar, when he needs money for agricultural operations or for carrying out some costly agricultural improvement, the State makes large and liberal advances of Tagavi either charging no interest at all or levying only a moderate rate of interest, when the amount advanced is large.

Among the measures indicated to conserve the economic improvement effected by Redemption are, (1) encouraging Kheduts to rear their own stock of bullocks by maintaining a cow or two; (2) multiplication of co-operative societies; (3) extension of Gramya Panchayats; (4) still larger advances of Tagavi, provided their recoveries are assured. To minimize leakage in Tagavi grants, the same are given through the agency of Gramya Panchayat and the co-operative society, where such agency is available. In order to do away with the delay necessarily involved in advancing Tagavi in the usual administrative way, a proposal is under consideration of the Revenue Department for placing an amount equal to a certain percentage of the land revenue of a village at the disposal of Gramya Panchayats, that are functioning satisfactorily, and giving them power to make these advances, if they undertake the responsibility. Other proposals for making the work of co-operative credit societies more effective, are also under consideration. These and some other proposals will be submitted to the Durbar in due course, if the necessary investigations now in progress show that they can be adopted and worked soundly.

Other constructive measures for improving the economic condition of the Kheduts, which have been either adopted or are under contemplation, are mentioned in the pamphlet entitled "Agricultural Debt Redemption & After" and these need not be repeated here. A Gujrati translation or rather adaption of the same has been separately published.

For the rest, the present economic position of the Bhavnagar Kheduts is well brought out in the accompanying statement, which has been prepared by abstracting all relevant figures and information from the tables and reports received from the different Mahals.

Bhavnagar,
D. 6-11-37.

}

N. M. SURATI,
Revenue Commissioner,
Bhavnagar State.

Statement showing the economic condition of the Durbari registered Kheduts of different Mahals, since wholesale redemption of their debts was carried out between 1930 A. D. ^F to 1936^H A. D.

Serial No.	Name of Mahal.	Total Number of individual holders.	Number of holders whose debts were liquidated under the Redemption Scheme.	Number of holders who have fully repaid the redemption loan advanced in composition of their debts.	Number of holders who have incurred fresh debts since redemption.	Amount of fresh indebtedness.
I	II	III	IV.	V.	VI.	VII.
1.	Daskroi.	2688	806	180	43	6224
2.	Sihor.	1771	743	119	30	3577
3.	Umrals.	2811	1211	337	265	37254
4.	Gadhda.	1316	521	52	383	52907
5.	Botad.	2205	865	152	244	42781
6.	Lilia.	2708	1207	154	42	5359
7.	Kundla.	5545	2717	508	231	22075
8.	Mahuva.	5598	2137	574	417	46163
9.	Talaja.	3193	1362	405	92	13199
10.	Victor.	2138	740	261	138	11074
Total.....		29973	12309	2742	1885	240613.

Continued from page 1.

Statement showing the economic condition of the Durbari registered Kheduts &c. &c.

Serial No.	Name of Mahal.	Amount of original debts liquidated under the Scheme.	Ratio percentage of fresh indebtedness entered in column VII compared with the amount shown in the preceding column.	Period of time that has elapsed since redemption was carried out.	Total number of Civil suits filed against agricultural holders since redemption was carried out.	Suits for amounts not exceeding Rs. 25/-.	
						Number of suits.	Total amount sued for.
		VIII.	IX.	X.	XI.	XII.	XIII.
				years-months.			Rs. as. ps.
1.	Daskroi.	505920	1.2	4 - 2	-	-	-
2.	Sihor.	515306	0.69	4 - 2	-	-	-
3.	Umrالا.	799343	4.6	6 - 4	55	22	287- 6- 3
4.	Gadhda.	593443	8.9	5 - 10	88	48	638- 5- 4
5.	Botad.	923125	4.6	5 - 0	65	24	316- 0- 1
6.	Lilia.	999644	0.5	7 - 8	98	47	582- 4- 0
7.	Kundla.	2009014	1.09	5 - 6	34	25	306-14-11
8.	Mahuva.	1143264	4.03	5 - 6	208	70	916- 1-10
9.	TalaJa.	902836	1.4	4 - 6	12	5	94- 3- 0
10.	Victor.	248338	4.4	4 - 5	10	4	52- 1- 0
Total.....		8640233	2.7		570	245	3193-4-5.

Continued from page 2.

Statement showing the economic condition of the Durbari registered Kheduts &c. &c.

Serial No.	Name of Mahal.	Suits for amounts exceeding Rs. 25/- but not exceeding Rs. 50/-.		Suits for amounts exceeding Rs. 50/-, but not exceeding Rs. 100/-.		Suits for amounts exceeding Rs. 100/-.		Remarks.
		Number of suits. XIV.	Total amount sued for. XV.	Number of suits. XVI.	Total amount sued for. XVII.	Number of suits. XVIII.	Total amount sued for. XIX.	
		Rs. as. ps.		Rs. as. ps.		Rs. as. ps.		
1.	Daskroi.	-	-	-	-	-	-	
2.	Sihor.	-	-	-	-	-	-	
3.	Umrala.	12	449- 9-6	11	777- 5- 6	10	1878- 8-0	
4.	Gadhda.	14	465- 1-9	7	534-12- 2	19	4170- 6-6	
5.	Botad.	13	516-13-0	7	484- 0- 0	21	11732- 0-0	
6.	Lilia.	19	644-11-0	17	1224- 1-11	15	2962-13-6	
7.	Kundla.	5	188-11-0	1	55- 0- 0	3	587- 4-0	
1.	Mahuva.	42	1541- 8-3	39	2775- 5- 3	57	18306- 2-9	
9.	Talaja.	2	80- 0-0	3	234-12- 0	2	2000- 0-0	
10.	Victor.	2	79- 3-0	3	176- 7- 3	1	641- 2-0	
Total..... ..		109	3965- 9-6	88	6261-12- 1	128	42278- 4-9.	



27

Report
on the
Administration
of the
Agricultural Market Act
for
1344 Fasli

Hyderabad-Deccan
Government Central Press
1937

X9(J):51,225r

(S)

REVIEW.

The Agricultural Market Act was applied to Adilabad from the beginning of 1345 F. The Act is now in force at nine markets, *i.e.*,

- (1) Nanded
- (2) Sailu
- (3) Umri
- (4) Jalna
- (5) Latur
- (6) Aurangabad
- (7) Hingoli
- (8) Raichur
- (9) Warangal

The number of meetings of Market Committees held were as follows :—

	1344 F.	1343 F.
Nanded	5	5
Umri		
Sailu	7	10
Jalna	1	10
Latur	11	13
Aurangabad.. ..	8	9
Hingoli	9	7
Raichur	6	10
Warangal	9	9

The postponement of meetings of the Market Committees at some places due to the absence of a sufficient number of members to form a quorum indicates a lack of interest of the members in the affairs of those Committees. The efficient working of the Market Committees depends mainly on the interest shown by the members. Government therefore hopes that the members of the Committees will take an increasing interest in the administration of the Act. The sub-committees at some markets are working more satisfactorily. There has been a further improvement in the disposal of arbitration cases at Latur.

The administration of the Agricultural Market Act in respect of marketing charges, Dharmada, etc., was satisfactory. Necessary steps are being taken to secure the early introduction of a reformed system of standard weights and measures.

The Government of India have undertaken a survey of the marketing of agricultural produce and have invited the Government of His Exalted Highness the Nizam to co-operate with them in the survey in order that it may be made as complete as possible. The Government of Hyderabad have agreed to the suggestion and have sanctioned the scheme for the work. It is expected that the survey will lead to a more ordered marketing of agricultural produce and prove to be beneficial both to the producer as well as to the trading community.

Government appreciate the excellent work done by the Marketing Officer and by officers mentioned in his report on the administration of the Agricultural Market Act, and trust that by a steady and progressive increase in the number of marketing centres brought under the provisions of the Act, much advantage may be derived by an increasing percentage of the rural population of the Dominions. In improved marketing conditions and in securing to the agriculturist the best possible price for his produce lies one of the most important approaches to a general betterment in rural economic conditions.

RAIS JUNG,

Secretary to Govt. Commerce and Industry.

ANNUAL REPORT ON THE ADMINISTRATION OF THE AGRICULTURAL MARKET ACT 1344 FASLI.

1. I was on tour for 92 days in the year 1344 Fasli. I could not go out on tour in the last months of this year as on account of the survey of Marketing of Agricultural produce, a large number of Marketing Officers attached to the Central Staff at Delhi visited Hyderabad in the month of August and September.

2. On the recommendation of the Subedar of Warangal, the Agricultural Market Act was applied to Adilabad. Section 19 of the Agricultural Market Act was previously in force at that place and the Government sanctioned the application of the Act in Aban 1344 F. The Agricultural Market Act is therefore, in operation at 10 markets.

- (1) Nanded
- (2) Umri
- (3) Jalna
- (4) Sailu
- (5) Aurangabad
- (6) Hingoli
- (7) Latur
- (8) Raichur
- (9) Warangal
- (10) Adilabad

The proposal to apply the act at Bhainsa, Purna, Badepalli (Jadcherla) and Parthur is under consideration.

The application of the Act at Bhainsa is necessary in view of the prevalence there of the system of purchase of cotton and agricultural produce on what is called 'Laoni' system. The description of the system was given in my Annual Report for 1342 Fasli. The Act could not be extended to Bhainsa owing to the absence at that place of a proper cotton market-yard. The proposal for the application of the Act to Bhainsa will be submitted as soon as a plot of land for the cotton market is acquired.

3. The number of meetings of Market Committees held during the year are as follows :—

	1344 F.	1343 F.	1342 F.
Nanded ..	5	5	8
Sailu ..	7	10	9
Jalna ..	1	10	5
Raichur ..	6	10	..
Hingoli ..	9	7	..
Warangal ..	9	9	..
Aurangabad..	8	9	..
Latur ..	11	13	16

Four meetings of the Market Committee at Jalna and 9 meetings at Hingoli were postponed owing to lack of quorum. Most of the resolutions of the Jalna Market Committee were approved by the members in circulation.

Dharmada and Charity Funds.

The Dharmada or Charity Funds are allowed to be collected at the regulated markets under certain conditions. The bye-laws of the Raichur, Nanded, Umri and Aurangabad Market Committees, lay down that the administration of the funds will remain in the hands of a sub-committee appointed by the Market Committee. The budget for the expenditure of funds will be approved by the Market Committee and the accounts will be submitted to it for audit. As the accounts of the Hospital Fund at Umri were not submitted for audit, the collection of that fund was discontinued in 1344 Fasli.

The Market Committee Nanded has reconstituted a sub-committee for the management of the fund collected at that place. The accounts of the Latur funds were audited. No fund is collected at Adilabad, Warangal, Hingoli, Sailu, and Jalna. The Market Committee Sailu contributes from its own funds Rs. 1,200 a year to a local charitable hospital called "Bai Amma Charitable Hospital". At Raichur a school called "Madrasa-i-Hamdard" is financed from the fund collected there.

4. Under Section 2 of the Agricultural Market Act the Government is empowered to notify the articles which are included in the term "agricultural produce." The Government had in the year 1340 Fasli issued a notification in which 18 articles were included. The Grain Market or Ganj is a common place for the sale of all kinds of produce grown by the cultivators. The adatyas and buyers deal in all kinds of commodities. The fact that certain commodities were treated as regulated under the Act and others were free from the conditions imposed by the rules and the bye-laws, caused a certain amount of confusion in the administration of the Act. Moreover, the Act was extended to places in Karnatic and Telingana where commodities that were not included in the first notification possessed considerable commercial importance. The Market Committees were therefore consulted in regard to the commodities that should be included in the definition of the "agricultural produce" under the above mentioned section. The Director of Agriculture was also consulted in the matter and after the approval of the Government a comprehensive list of all the important agricultural produce was issued in the notification dated 4th Aban 1344 Fasli. In addition to the 18 articles included in the first list, the new list contains 28 articles of varying commercial importance in the different regulated markets.

5. I had mentioned in my previous annual reports that the prices for the "Agricultural Produce," *i.e.*, grain, oil-seeds, etc., were not paid by buyers to the adatyas on the day of the sale. The adatya generally did pay the prices to the cultivators but at some places he deducted from the proceeds of the sale a certain amount for cash payment to the seller. The sellers therefore indirectly paid an interest on the outstanding amount due from the buyer. At almost all the markets, payment of the price by the buyer to the adatya and by the adatya to the seller on the day the sale has taken place has been made obligatory. This system of payment of price is working satisfactorily and it is expected that the buyers will very soon get accustomed to the new method of prompt payments. The adatya is also relieved of the anxiety which he naturally had in respect of collecting the dues from the buyer.

6. (a) A certain percentage of Takpatties were regularly checked at every Market. The Superintendent of Sailu Market Committee checked the Takpatties during his tour in the villages. The propagandist at Sailu and Superintendents at some markets toured in the villages in the interior and explained to the cultivators the provision of the rules and the bye-laws.

(b) The number of arbitration cases were few at all markets except Latur where 38 disputes were decided by arbitration. The sub-committees appointed for this purpose worked satisfactorily at Latur.

The disputes usually arise in respect of payment of price or for the reduction in price which buyer asks for quality.

In the Cotton Markets the price fixed in the auction is for average quality and 'dokras' (the packages) are opened and the Kapas examined at the time of the weighment. This system of fixing the price gives rise to a very large number of disputes which are generally settled by the buyer and the adatyas without reference to the Market Committee. As the number of carts bringing Kapas for sale into a market is very large, no other suitable method of auction of Kapas is practicable. In the grain market the auction for various commodities is held either on heaps of the agricultural produce or the bags. Although the prices for grains are fixed separately for each bag or heap, the buyers in grain market are also in the habit of demanding

deduction in the prices for quality at the time of the weighment. The system that the buyers should thoroughly examine the quality of the grains before they bid for it and should not ask for reduction in price for quality afterwards, is gradually being introduced in the regulated markets.

7. The number of carts and animals which brought Kapas and agricultural produce to regulated markets are given below :—

NUMBER OF CARTS.

Name of the Market	COTTON			GRAIN			TOTAL			PACK ANIMALS
	1842	1843	1844	1842	1843	1844	1842	1843	1844	1844
Nanded ..	42,844	80,586	32,492	17,667	22,122	31,454	60,011	52,708	68,946	
Sajju ..	37,274	28,594	22,448	18,466	18,002	26,069	55,740	48,596	48,517	
Hingoli ..	..	19,850	12,282	..	12,300	9,127	..	32,150	21,409	1,127
Baichur ..	..	58,000	55,856	..	62,000	1,02,181	..	1,15,000	1,57,487	..
Wurungal ..	..	47,587	44,873	..	47,587	44,873	..	95,174	88,746	..
Latur ..	49,350	44,871	54,452	94,688	89,101	70,156	1,44,038	1,33,972	1,24,608	..
Aurangabad ..	..	..	21,981	..	..	3,296	..	..	25,227	..
Jalna ..	34,004	45,116	..	56,420	49,230	..	90,424	94,346	..	..
Umri ..	20,222	15,847	14,270	3,085	3,008	2,692	23,257	18,850	16,982	7,852

The arrivals at Jalna of various commodities were as follows :—

	1843 F. (Pallas)	1844 F. (Pallas)
Kapas	1,10,000	72,321
Cotton	22,500	15,576
Jawar	78,000	40,916
Linseed	24,000	32,930
Korad	22,500	47,058
Wheat	17,000	25,292
Thuwar	18,000	28,716
Gram	6,000	5,788

8. The weights and measures in use at the regulated markets are checked by the Superintendent and those that were found defective were corrected and brought up to standard. The maund weights manufactured by the Mint are used as the standard. For dry measures of capacity there is no standard. The Market Committees have for the sake of convenience adopted local standards of 'Dry measures of capacity.' The question of keeping secondary and working standards of weights and measures is very important and this question is being investigated. As the administration of the weights and measures Act has now been transferred to this branch, the question can be dealt with in its broader aspects.

Prices.

9. The average monthly prices of Kapas and some of the important agricultural produce are given in appendix (1)*

The unit of transaction for Kapas and agricultural produce is different at all the markets. Moreover, wheat, rice, linseed, etc., are weighed at some markets and measured at others. The average prices are however given in a uniform unit, viz.,

for Kapas khandi of 800 seers
for all other agricultural produce maund of 40 seers.

* Not printed.

The prices for the various units of transaction in weight have been reduced to the above standard weights. Those commodities which are measured in the markets have also been reduced to the standard unit by converting the unit of measures into maund of 40 seers. For this purpose a number of experiments were made at all the markets where measures are in use, to find out the average weight of the different commodities. The wheat at Nanded is transacted for in a maund of 85 seers in measures and by experiments it was found to be equal to $2\frac{1}{8}$ Bengal maund of 40 seers by weight.

The prices of commodities given in the appendix are only those which were fixed in the open auction at the markets and they are only for that period in the year in which auctions are held. These figures therefore represent the average prices obtained by the cultivators for their agricultural produce at the wholesale markets.

As these figures are only for one year, detailed comment on them is unnecessary. The prices are being collected on the same system at every regulated market and in course of time it is expected that they will serve the purpose of an index number of the prices of agricultural produce with special reference to the values obtained by the agriculturists.

10. The scheme for the survey of marketing of agricultural produce and animal husbandry products was sanctioned in the month of Aban 1344 Fasli. The survey is being conducted in co-operation with the Government of India and is on the same lines as in British India. The synopses for the survey of various commodities and cattle, etc., were settled at a conference of the Central Marketing Staff appointed by the Government of India and the Marketing Officers of Indian provinces and States held at Delhi in March 1935. I attended this conference. Under the scheme for the survey, four posts of Assistant Marketing Officers were sanctioned for a period of five years. The following officers from the Agricultural and Veterinary Departments were deputed for the Survey.

1. Mr. G. V. Hardikar, B. Ag. from the Agricultural Department.
2. " Hatim Ali B. Ag. " " " "
3. Dr. K. P. Pillai " " Veterinary Department.
4. Mr. Hasebur Rahman Kidwai B. Ag. from the Agricultural Department.

The survey was begun immediately after the appointments of the above officers and is proceeding satisfactorily. The marketing of the following commodities is being surveyed this year.

1. *Cereals ; wheat ; rice.*
2. *Oil-seeds, Ground-nut, Linseed.*
3. *Livestock and livestock product : cattle, hides and skins, milk and eggs.*
4. *Fruits & special crops : tobacco, and*
 1. Oranges, limes, lemons, grape-fruit, pomelo (shaddock) and citron.
 2. Apple, pear, quintice, medlar and Loquat.
 3. Plums, cherries, peaches, nectarines and apricots.
 4. Grapes.
 5. Raspberries, currants, strawberries.
 6. Bananas (plantains) and pineapple.
5. *General subjects concerning Marketing :— Fairs, markets and exchanges, co-operative marketing.*

The office of the Agricultural Marketing Adviser to the Government of India have made arrangements for the examination of the samples of agricultural produce with a view to enable them to define suitable grades and standards with precision. The following number of samples were sent to the places noted against them for examination.

	No. of samples	Places
Linseed ..	40	Lecturer in oil Technology, Cawnpore.
Ground-nut ..	131	Oil-seeds Specialist, Cawnpore.
Wheat ..	59	Cerealist Punjab, Agricultural College, Loyalpore.
Tobacco ..	14	Agricultural Marketing Advi- ser, Delhi.
Hides ..	19 oxen hides 2 packages	Cawnpore.

The physical examination of the samples of rice was done by Dr. Krishna, Agricultural Chemist, Himayatsagar Farm for whose interest in the matter I am very thankful. The boiling test of rice will be done at Dacca where samples have been sent.

The Government was pleased to permit me to correspond directly with the Agricultural Marketing Adviser to the Government of India in matters of routine work in connection with the Survey of Marketing.

10. I have to acknowledge the great interest taken in the administration of the Agricultural Market Act by the Chairman of all the Market Committees. I may specially mention the following :—

1. Moulvi Gulam Ghouse Khan Sahib, Chairman, Market Committee Raichur.
2. Moulvi Alliuddin Ahmed Khan Sahib, Chairman, Market Committee, Jalna.
3. Moulvi Ghulam Ahmed Khan Sahib, Chairman, Market Committee, Aurangabad.
4. Mr. R. S. Parkh, Chairman, Market Committee, Sailu.
5. Moulvi Rahamatulla Shariff Sahib, Chairman, Market Committee, Warangal.
6. Moulvi Mustafa Ali Sahib, Chairman, Market Committee, Latur.

INFORMATION BUREAU,
H.E.H. THE NIZAM'S GOVERNMENT,
Hyderabad-Deccan,
23rd June 1938.

No. C.E/43.

To:

His Excellency

Servant of the State

Pome

28

Dear Sir,

Kindly have the enclosed Communique re: the
Moneylenders' Regulation of 1347 F. published in

the journals you represent for the information of the
your esteemed journal
public.

Yours faithfully,

H. Rahman

DIRECTOR.

X63: (2225)

98

D.N.R.
23/6.

COMMUNIQUE.

THE MONEY LENDER'S REGULATION OF 1347F.

In a recent Press Communique the public were informed of a number of measures for relief of agricultural indebtedness which Government were contemplating to introduce. One of these was registration and licensing of moneylenders and a Regulation or Act for limiting rates of interest in future, based on a modified form of the similar enactments now in force in many Provinces of British India. During the investigation into the volume of agricultural indebtedness in the Dominions it was discovered that a large portion of the accumulated debt was due to arrears of interest and also that these arrears were due to heavy rates of interest prevailing in rural Hyderabad. The ruling rates of interest in villages vary from 10 to 36 per cent in cash loans and from 20 to 50 per cent in case of loans in kind. The interest is moreover compound interest in most cases ; that is to say at the end of every year the arrears of interest are included in the principal sum and the rate of interest is charged on this artificially enhanced amount which is called the new principal amount. Recognising that it is this burden of accumulated interest that the agriculturists are unable to bear, Government has, after issue of Firman-e-Mubarak dated 11th Safar 1357 H. (13th April 1938) sanctioned a Regulation called the Hyderabad Moneylenders' Regulation under which the following provisions beneficial to agriculturists, labourers and all other debtors have been commanded to be introduced immediately in the Dominions. The principal provisions of the Hyderabad Moneylenders' Regulation are as given below:-

(1) The Hyderabad Moneylenders' Regulation will be extended to the whole of H.E.H. the Nizam's Dominions including Sarfekhas Mubarak, Paigahs, Jagirs and Samasthans, as soon as the licensing authority of these ilakas is decided. Till then the Regulation will be enforced only in Dewani areas, and in all talukas of Sarfekhas Mufawaza Dewani. The important procedure is that unless within three months of the final rules being published, moneylenders make applications for registration and for obtaining a licence for permission to conduct the business of moneylending, courts will reject their suits under Section 8 (b) of the Moneylenders' Regulation. Moneylenders will have to apply for registration and licence on this form at their own expense either in manuscript or otherwise. Rules under Section 13 of the Moneylenders' Regulation will be notified at an early date but the rates of interest mentioned in Section 3 (c) of the Moneylenders' Regulation will come into force in all Dewani and Sarfekhas Mufaweza Dewani areas from 1st Amardad 1347 F. (6th June 1938). The maximum rates, notwithstanding any agreement between a moneylender and a borrower will be nine per cent simple interest in the case of secured loans and twelve per cent interest in the case of unsecured loans. The levy of compound interest as well as charging of expenses incurred by moneylenders in respect of loans, are forbidden.

(2) The Regulation does not apply to Banks, or Companies or Co-operative societies, but only to moneylenders including pawnbrokers.

(3) It applies to loans in cash or in kind, but shall not include loans advanced to agricultural labourers by their masters or to loans advanced by Banks, Co-operative

societies or by Government.

(4) The most important provision is that the rate of interest from the date of coming into force of this Regulation shall be limited to the maximum amount of 9% simple interest in case of secured loans and 12% simple interest in case of unsecured loans. This provision will not affect the rates of interest fixed on secured or unsecured loans before the coming into force of this Regulation.

(5) The Regulation will apply to all moneylenders, great or small, including Rohillas, Pathans & Arabs.

(6) Under Section 3, moneylenders are bound to furnish to every debtor once a year with a statement of accounts in the prescribed form in the language of the district in which the debtor resides. The principal and interest are to be shown separately and no portion of interest shall be included in the principal sum.

(7) Moneylenders are bound to give receipts for payments made by debtors.

(8) Other important provisions to be brought to the notice of the public are those prescribed under Section⁸ of the Moneylenders' Regulation which are:-

(a) The court will first frame and decide the issue whether the moneylender is a moneylender as defined in the Regulation,

(b) whether he has maintained the accounts regularly in the language of the district and furnished a statement of the accounts to a debtor every year as prescribed in the Regulation,

(c) if the court finds that the moneylender is not a moneylender as defined in the Regulation and has not been registered as a licensed moneylender, the court will

summarily reject the suit and will disallow costs, and

(d) if the court finds that the moneylender has not maintained the account regularly, nor furnished the debtor every year with the statement of accounts in the language of the district, the court will either disallow whole or any portion of the interest due as may seem reasonable to it and may disallow costs, or in computing the amount of interest due upon the loan, the court will exclude every period for which the moneylender omitted to furnish the account as required by the Regulation.

(9) The above provisions shall not apply to any loan made before this Regulation comes into force, but if in respect of loan made before this Regulation comes into force, a fresh transaction is made after the coming into force of this Regulation, such transaction will be subject to the provisions of this Regulation.

(10). The court will not decree, in respect of any loan made before this Regulation comes into force a sum greater than the original principal of such loan, on account of arrears of interest, nor shall a court decree on account of arrears of interest, a sum greater than the principal of the loan in respect of any loan made after this Regulation comes into force.

(11) The court shall have power on the application of a judgment-debtor to fix instalments for repayment of the decreed amount.

(12) The forms for application for registration and licence and for keeping and sending statement of accounts to debtors once a year, are published below. The ^{fee}/~~xxx~~ for granting licences will be Rs.18 per licence which will be in force for four years from the date of granting.

(5)

The Schedule referred to in clause (b) of sub-section 1 of
Section 3 of the Hyderabad Moneylenders' Regulation.

Loan Account of -----son of----- caste-----residence-----
Opening balance (if any)-----
Principal-----
Interest-----

J A M A						N A M A (KHARCH)						
Date.	Particulars of repayment, whether cash or kind, in words.	Repayment figures.		Appropriation.		Date.	Particulars of advance in words - whether cash or kind.	Advance in figures			Remarks.	
		Cash.	Kind (num- ber & weight)	Prin- cipal.	Inte- rest.			Cash.	Kind (num- ber & wei- ght).	Rate of inte- rest.		Amount of inte- rest char- ged.

Principal-----interest----- Balance outstanding on-----13 F.
Add opening balance as above-----

Total. _____

(Signature) Creditor or Agent.

FORM NO. II.

FORM OF APPLICATION.

(Section 13 of the Hyderabad Moneylenders' Regulation).

To

The Tehsildar, (or Talukdar of Baghat in case of Hyderabad City).
-----Taluk.
-----District.

I, the undersigned, request that I may kindly be registered and licensed as a moneylender under section () of the Hyderabad Moneylenders' Regulation of 1347F. I am prepared to pay the fee prescribed by Government, in that behalf, in cash.

I reside at -----, taluk-----district-----, where the principal place/a branch of my moneylending business is situated. My religion/caste is-----

Dated-----13 F.
Place-----.

Signature or thumb impression of the moneylender or his authorised Agent.

FORM NO. III.

LICENCE OF MONEYLENDING.

(Section 13 of the Hyderabad Moneylenders' Regulation).

I hereby certify that-----son of/widow of----- caste (or religion)-----, resident of-----, taluq----- district-----, has been registered as a moneylender under Section 2 (5) of the Hyderabad Moneylenders' Regulation of 1347F. for the----- district, on this-----day of----- 13 Fasli and is hereby licensed to transact business as a moneylender in the district.

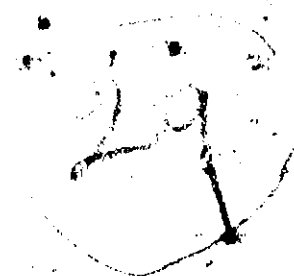
-----Tehsildar, (or Talukdar of Baghat, in case of Hyderabad City).
-----Taluk,
-----District.

Debt

No. C.E/44

INFORMATION BUREAU,
H.E.H. THE NIZAM'S GOVERNMENT,
Hyderabad-Deccan,
25th June 1938.

To



Dear Sir,

Kindly have the enclosed Communique re: Debt

Cancellation Regulation of 1347 F. published in

the journals you represent for the information of the
your esteemed journal

public.

Yours faithfully,

X9(J):6:(7225)

98

H. Rahman

DIRECTOR.

D.N.R.
25/6.

COMMUNIQUE.

THE DEBT CONCILIATION REGULATION OF 1347F.

In the recent Press Communique about measures that Government intended to adopt for relief of agricultural indebtedness in Hyderabad, one of the principal measures mentioned after protecting the land of hereditary agriculturists paying not more than Rs.500 assessment is to establish Debt Conciliation Boards in selected districts. This conciliation of debt, otherwise reduction of accumulated past interest, will be voluntary and by mutual agreement between the debtor and the creditor made before a Panchayet consisting of money-lenders and agriculturists and presided over by a Government Gazetted Officer. Parties will be exempted from payment of stamp duty on applications and pleaders will not be allowed to appear on behalf of any party. As the land of the agriculturist - debtor paying not more than Rs.500/- assessment, is protected by Government, a creditor will have to recover his debt from the produce of the land by instalments, after deducting from the produce Government land revenue, expenses of cultivation and maintenance charges of the cultivators' family. Later on, when a Land Mortgage Bank is established, if the creditor makes a further drastic reduction of the debt with a wish to get the settled debt paid in cash and if the debtor is willing to mortgage land to the Bank worth at least twice the amount to be paid to the sowcar and if the paying capacity of the debtor from the produce of his land is such that the Bank's debt can be wiped off in twenty years, the sowaar may be able to get an immediate cash payment of the conciliated and

reduced debt from the Land Mortgage Bank.

The salient features of the Debt Conciliation Regulation are :

1. that the Debt Conciliation Regulation applies only to agriculturists whose debts exceed Rs.100;

2. that a debtor or any of his creditors may apply to the Debt Conciliation Board appointed for the area^a, but no application can be made in case of debtors paying land revenue exceeding Rs.500;

3. The Regulation provides for the establishment of a Debt Conciliation Board for any district or part of a district; the normal jurisdiction of a Board will be one or possibly two talukas;

4. the debtor can get all his creditors summoned to appear before the Board, even though the creditors do not wish to sue the debtor ;

5. creditors ^{and debtors} are brought together with a view to effect an amicable settlement of debt and the Board persuades parties to come to such settlement;

6. if a settlement is agreed to by the parties, it is recorded by the Board and registered; and

7. if there is no settlement, the application is dismissed, but the Board may issue a certificate to the debtor that the offer made by him to the creditor was, in its opinion, fair. In such cases the creditor will not get the cost of his suit when he filed suit in a civil court or any interest on the principal amount due to him, in excess of simple interest of six per cent per annum, after the date of such certificate.

Government have decided to set up Debt Conciliation Boards from 1st Amardad 1347 F. or as soon thereafter as possible in the districts of Aurangabad, Medak, Gulbarga, Warangal and Osmanabad, where in each district one or two talukas will be first taken up and periods will be fixed for each taluka, the debtors or creditors of which will have to file applications before the Board before the expiry of the period.

The names of the Chairman and members of Debt Conciliation Boards with their respective terms of appointment for the Board of each taluka, the names of headquarters and the extent of jurisdiction of each Board, will be notified in due time.

D.N.R.

X9(J): (2224). N326
 93

NOTIFICATION.

No. R. 1700—L. R. 110-83-6, dated, Bangalore, 10th October 1933.

The accompanying report of the Inam Committee appointed for examining the existing conditions and prospects of tenants in inam and jodi villages and allied subjects, is published for general information. Those desirous of expressing their opinion on any of the subjects dealt with in the Report are requested to communicate the same to the Secretary to Government, Development Department within two months from the date of this notification.

By Order,

S. ABDUL WAJID,
 Secretary to Government,
 Development Department.

REPORT OF THE COMMITTEE CONSTITUTED IN GOVERNMENT ORDER, DATED 24—25th OCTOBER 1932 FOR EXAMINING THE EXISTING CONDITIONS AND PROSPECTS OF TENANTS IN INAM AND JODI VILLAGES.

Introductory.

The difficult question of the relationship between the inamdars and tenants has been frequently coming up before Government for consideration. It was urged in the Dasara Session of the Representative Assembly in 1914 that the law relating to the rights of the inamdars and tenants should be clearly defined, that Survey and Settlement should be compulsorily introduced into inam villages, and that the individual responsibility of the co-sharers for payment of jodi, etc., due on their shares should be strictly enforced. A Committee was appointed in 1915 and another again in 1916. Finding that their investigations were incomplete, Government appointed a Commission in 1918. This commission made elaborate enquiries, examined a large number of witnesses, both among the inamdars and tenants, and after careful consideration, submitted an exhaustive and interesting report to Government, covering practically the whole field of relationship between the inamdar and the tenant and the inamdar and Government. The orders of Government on their recommendations are contained in the Government Order No. 28-48—L. R. 482-17-42, dated 2nd July 1925. There was a representation by the Inamdars' Association for a modification of this order in several respects on the ground that the rights of inamdars had been severely curtailed by it. Government passed orders in consultation with the Revenue Commissioner, in Government Order No. R. 4306-26—L. R. 126-25-7, dated 22nd January 1927, modifying in some respects the orders of 1925. Almost all the amendments proposed as a result of these two orders have been incorporated in the Land Revenue Code.

2. In spite of the action taken in the past, the relationship between the inamdars and their tenants does not seem to have improved to any appreciable extent. There is still a feeling on the part of the tenants that their position is insecure, that their lot is not as happy as that of raiyats in Government villages and that they have not been properly looked after by the inamdars. On the other hand, the inamdars complain that the tenants are very irregular in payment of rent, force the inamdars frequently to civil litigation for its recovery and that they set up kadim tenancy rights where they do not really exist.

3. Mr. D. H. Chandrasekhariah, Member from the Chitaldrug District, moved the following resolution in the Legislative Council on 20th June 1932:—

“That this Council recommends to the Government of His Highness the Maharaja that a mixed Committee of officials and non-officials be constituted with a view to study the existing conditions and prospects of tenants of Inam and Jodi villages of the State and to recommend suitable measures for their amelioration and improvement.”

Government accepted the resolution and appointed a Committee in Government Order No. R. 2072-9—L. R. 469-31-4, dated 24—25th October 1932, with the Revenue Commissioner as Chairman and the marginally noted gentlemen as members. The Deputy Superintendent of Revenue Survey was appointed Secretary. The terms of reference to the Committee are as follows:—

The Deputy Commissioner, Bangalore District (Mr. K. V. Anantaraman).
The Deputy Commissioner, Mysore District (Mr. C. S. Kuppaswamiangar.)
Mr. B. K. Garudachar.
" K. Chingalaraya Reddy, B.A., B.L.
" D. H. Chandrasekhariah, B.A., LL.B.

- (1) To examine the rights and liabilities of inamdars and their tenants under the existing laws and to make recommendations with regard to the improvement of the position of the tenants *vis-a-vis* of the landlord.
- (2) To examine the question as to whether the provisions regarding the taking of villages under Government management are sufficient, and how they can be extended.
- (3) To examine the desirability of undertaking legislation to enable Government to acquire the rights of inamdars for payment in cash or award of compensation in any other manner.

4. There has been no change in the personnel of the Committee, but the Secretary had to be changed in the month of June 1933 as the services of Mr. S. N. Appanna Iyengar, B.A., B.L., Deputy Superintendent of Survey, who was appointed as General Secretary to Government, were not available to the Committee. On the recommendation of the Chairman, Government sanctioned the appointment of Mr. T. Ramaiya, B.A., (Hons.), Assistant, to the Revenue Commissioner as Secretary of the Committee.

Procedure of the Committee.

5. The Committee met fourteen times in all. They held the first meeting on the 13th December 1932 in Bangalore and after a preliminary discussion regarding the scope of the terms of reference, they resolved that instead of issuing an elaborate questionnaire and examining witnesses in a formal manner, it was decidedly better to visit typical inam villages in the Bangalore, Kolar and Mysore Districts, as it would enable them to get a first-hand knowledge of the conditions of the tenants and their relations with the inamdars. Government sanctioned the Committee's proposal in order No. R. 4596-97—L. R. 469-31-13, dated 15th March 1933. The Committee accordingly visited a large number of inam villages of different types, settled and unsettled, well-managed and ill-managed, and also examined respectable witnesses, inamdars and tenants who offered to give evidence, in their sittings in Mysore, Bangalore, Bowringpet and Kolar Gold Fields. A brief summary of the itineration of the Committee, the opinions expressed by the important witnesses examined, and the discussions the Committee had with the inamdars and tenants has been separately submitted to Government. Among the villages visited, mention may be made of Thammadihalli in Chamrajnagar Taluk, Thandekere and Lakshmipura, Krishnarajapete Taluk, Varadenahalli, Malur Taluk, Kaggalipur, Bangalore Taluk, Urgahalli in Closepet Taluk, Uttanahalli, Mysore Taluk, Doddabagil in T.-Narsipur Taluk, Bellambore in Kolar Taluk and Nandagudi group in Hoskote Taluk. The following witnesses offered to give evidence and were examined by the Committee:—

1. Mr. Venkata Urs, tenant of Thammadihalli village in Chamrajnagar Taluk.
2. " Venkataswami Iyer, inamdar of Kannagala, Chamrajnagar Taluk.
3. " Subba Rao, jodidar of Volagere and Kanipura inam villages in Nanjangud Taluk.
4. " M. K. Krishna Rao, inamdar of Thammadihalli and Padvanakodu Hosahalli, Chamrajnagar Taluk.
5. Mr. Subramanyaraj Urs, inamdar of Iggali, Nanjangud Taluk.
6. " S. Krishnamachar, inamdar and Mr. Gopalengar, tenant, of Uttanahalli village, Mysore Taluk.
7. *Rajasilpivisarada, Rao Bahadur* Mr. B. Subba Rao, retired Chief Engineer, inamdar of Lakshmipura village, Krishnarajapete Taluk.
8. Mr. K. Ramaswami, Public Prosecutor, Mysore, and Inamdar of Thandekere, Krishnarajapete Taluk.
9. Mr. H. Srinivasa Rao, Jodidar of Vardenahalli in Malur Taluk.
10. " M. G. Shama Rao, Kayamguttadar of Garudapalya, Malur Taluk.
11. " Ramachandrachar, Jodidar of Dibbur, Bowringpet Taluk.
12. " Jayaramareddy, Kayamguttadar of Peelavaram and also an inamdar in British India.
13. " N. Surappa, Secretary of the Inamdars' Association.
14. *Dharmaprakasa* Mr. B. V. Krishniengar of Bangalore.
15. Mr. Uregahalli Krishna Iyengar.

Disabilities of tenants and inamdars.

6. The main disabilities of the tenants that came to the notice of the Committee in the administration of the inam villages may now be enumerated. A sense of insecurity of tenure is felt by tenants. There was a general complaint that the inamdars were not keeping proper accounts, were not issuing *pattas*, and were not giving proper receipts for *kandayam* paid. In many villages, there were *noshanbhogs* and *patels* and in some instances, the *shanbhogs* were not on amicable terms with the inamdars. Some inamdars would be continuously absent from their villages, would allow arrears to accumulate for years, and then suddenly demand from the tenants the entire amount. In some villages, there was no assignment of *gomal*, the tanks were in a neglected condition, and remissions of assessment were not allowed by the inamdars as in Government villages. As in the case of many Government Villages, drinking water facilities, medical aid and good communications did not exist. On the other hand, the inamdars complained that the tenants were irregular in payment, took advantage of the absence of unanimity among the co-sharers, and that they were driven to the necessity of going to a Civil Court for the recovery of their dues.

Committee's recommendations.

7. The Committee have examined the existing law and standing orders on the subject, and after giving careful consideration to the problems before them and to the various suggestions that were made to them have resolved to make recommendations as in paragraph 36. They are aware that Government action or even legislation by itself may not avail to smoothen the relationship between an inamdar and his tenants unless there is mutual good-will between them. In making their recommendations, the Committee have considered the interests of the tenants as well as of the inamdars and they entertain the hope that the proposals now made will go far to improve the condition of the tenants *vis-a-vis* the inamdars.

Introduction of Survey and Settlement.

8. The chief points in respect of which the tenants in inam villages need protection are the uncertainty of demand and the uncertainty of tenure. The Committee consider that the compulsory introduction of Survey and Settlement into inam villages can no longer be deferred, and that if this is sanctioned, the relationship between the inamdar and the tenants will materially improve, to the permanent advantage of both. They are confirmed in this view by the fact that in their itineration, they found the administration generally satisfactory and the relationship between inamdars and tenants more harmonious in settled villages than in the unsettled ones. The idea of compulsory introduction of Survey and Settlement is not a new one. As stated in paragraph one of the report, it was urged in the Dasara Session of the Representative Assembly so far back as 1914 and it formed the very first term of reference to the Inam Commission appointed in 1918.

As a result of the recommendations of the Commission of 1918 and the orders passed by Government, the present law in this respect may be stated to be as follows:—

Government can order introduction of Survey into all inam villages. But, as regards Settlement, the Government can compulsorily introduce it into any alienated or *kayamgutta* village on the application of holders of alienated land holding in the aggregate not less than half the shares in such village or on the application of tenants holding interest in not less than half the occupied lands, subject to such rules as the Government may frame in respect of the apportionment of the cost of the Survey and Settlement.

Provided that when the application is by tenants, the Revenue Commissioner shall call upon the holder of the village to show cause why Settlement should not be introduced into the village, and on hearing his objections, if any, shall pass such orders as he deems fit. Within three months of the date of such order, an appeal may be preferred to the Government whose decision shall be final.

9. Prior to this amendment, the tenants had no voice in the matter of the introduction of Survey and Settlement and Government could not, except when the village was under their management, without the consent of the inamdars, introduce Survey and Settlement into an inam or kayamgutta village except to the extent required for fixing the boundaries of any such village or determining any disputes relating thereto.

10. Even with the extended scope of the above amendment, the progress cannot be said to be satisfactory. It has been found that the inamdars are generally averse to the introduction of Settlement, though it must be stated that the objection is wearing down and the representative of the Inamdars' Association distinctly told the Committee that the Association was in favour of the compulsory introduction of Settlement. Some of the inamdars seem to be under the misapprehension that Survey and Settlement would by itself give permanent occupancy rights to the tenants who did not possess them before and that the adoption of Settlement rates would diminish their income. This seems to be the general obstacle in the way of the rapid progress in the introduction of Survey and Settlement into inam villages. Of the total number of 2,098 inam and kayamgutta villages in the State, Settlement has been introduced into 547, and Survey into 144 villages in addition.

11. The Committee consider that the only satisfactory solution is to make the introduction of Survey and Settlement compulsory. At the same time, the Committee see the reasonableness of the demand that the total income of the inamdar from his permanent and kadim tenants in cash or in kind or both should not be reduced below what he was getting before the Settlement, and this has been approved by Government in their order of 1927.

12. This leads to the further question whether in order to secure the existing income of the inamdar, the maximum rate fixed for any particular class of land in a particular group could be exceeded. Mr. B. K. Garudachar was of opinion that there should be no objection to such a course and that whenever rates have to be fixed in an inam village at a rate higher than the maximum survey rates applicable, it may be done with the special sanction of Government. The Committee are, however, of opinion that the maximum survey rates should on no account be exceeded, as in practice, there is always a wide margin between the maximum and average rates applicable to a locality. The Committee also consider that the above concession in the rates in favour of the inamdar should be confined to the lands under cultivation at the time of Settlement, and that the batayi lands which may hereafter be taken up for cultivation should be assessed only at the Settlement rates of assessment prevailing in the locality.

13. The Committee have also considered the question of the distribution of the cost of operations. The rule as it now stands is that when Survey is taken up along with the Taluk, the cost is borne entirely by the Government, but when it is taken up on the motion of the inamdars independently of the Survey of the Taluk, half the cost is borne by Government, the other half being payable by the inamdar, who has also to bear the usual labour charges. (*Vide* paragraph 3 of the Government Order. No. R. 4306-26—L. R. 126-25-7, dated 22nd January 1927.) Even this half cost is waived if the inamdar applies for Settlement also. (*Vide* G. O. No. R. 2585-96—L. S. 49-26-8, dated 4th October 1929.) As regards the cost of Settlement, it is not levied when Settlement is made at the instance of the inamdars, but if it is introduced on the motion of the tenants, the cost has to be borne by them. Now that the introduction of the Survey and Settlement is to be made compulsory, the Committee consider it only fair that Government should bear the entire cost of the operations both of Survey and of Settlement. In the larger interests of the well-being of both inamdars and tenants which is a matter of intimate concern to Government, this expenditure would be amply justified. The incidental charges in respect of flagholders, etc., will, as usual, be borne by the inamdar and the villagers.

Definition of permanent tenancy under section 79, Land Revenue Code.

14. Closely connected with the question of Settlement is the nature of tenancy. The apprehension that the introduction of Settlement will by itself confer occupancy rights on the tenants is, as stated before, not correct. Government have specifically laid down in Order No. 3084—P. F. 101-93, dated 21st

August 1891 "that in introducing detailed Survey and Settlement into a Jodi village, the Survey Department merely registers the lands of the villages in the names of their present occupants. Whether the occupants are to be regarded as kadim raiyats or not is a matter on which the Settlement Department has no power to pass any order." This question formed the subject of considerable discussion by the Inam Commission of 1918. Formerly, the presumption as to permanent tenancy rested on rather vague considerations and the Commission of 1918 therefore suggested that in certain specific cases such a presumption should be legally raised. Their recommendation was accepted by Government and has now been embodied in the Land Revenue Code as explanation to section 79. The present Committee are of opinion that the period of 20 years mentioned in paragraph 4 of the explanation to section 79 may be changed to twelve years, as ordinarily uninterrupted possession of immoveable property for that period would raise under the general law a rebuttable presumption of title. If, therefore, a tenant has paid rent or kandayam at a uniform rate continuously for a period of 12 years, it will not be unfair to raise a presumption that his tenure is a permanent or kadim one. The Committee are glad to note that with the exception of one or two witnesses, *viz.*, Mr. M. G. Shama Rao and Mr. Ramachandrachar, no objection has been raised to this suggestion by the inamdar witnesses. Mr. N. Surappa, Secretary of the Inamdars' Association, was agreeable to the reduction of the period to twelve years, and even to six years on the condition that if the tenant did not pay rent for one year, he should lose the kadim tenancy right. Mr. Venkataswami Iyer of Chamarajnagar was not only agreeable to the reduction of the period to twelve years, but went further and stated that each raiyat in an inam village should be a kadim tenant just as a registered occupant in a Government village. Mr. Jayarama Reddy, Kayamguttadar of Peelavaram, stated that he had granted occupancy rights and permanent pattas to all his tenants both in Mysore and British villages.

Mr. Chandrasekhariah, a member of the Committee, was of opinion that questions relating to the nature of the tenancy should be enquired into and finally determined and recorded by the Survey Officer at the time of the introduction of the Settlement and that such record should be considered as presumptive evidence of permanent tenancy or otherwise. The other members of the Committee, however, felt that such a power involving a judicial decision of civil rights of parties should not be conferred on Survey Officers, as under the existing law, a separate forum and procedure have been prescribed for the determination of such controversies. The Committee have, however, no objection to a direction that the Settlement Officer shall make a list of all cases in which disputes are brought up before him as regards the kadim or permanent nature of the tenancy rights and to send the list to the Deputy Commissioners for necessary action under the Land Revenue Code.

Commission under section 99 and amendment to section 97 of the Land Revenue Code.

15. The above recommendations will definitely improve the position of the tenants in inam villages in various important respects. In order to further improve the position of the tenants, and in the interests of the inamdars also, the Committee feel that better facilities should be given to the latter for the collection of rents due to them and in this view, they recommend (1) that after the introduction of Survey and Settlement, Commissions under section 99, Land Revenue Code, may be granted more liberally to eligible inamdars, and (2) that the period of two years fixed in the proviso to section 97, Land Revenue Code, for recovery of rent or land revenue from tenants in an inam village by revenue processes should be raised to six years in cases in which the rent or land revenue is payable in cash, the existing provision remaining unaltered in the case of payment of rent in kind.

16. Under section 99, Land Revenue Code, it is lawful for Government at any time to issue a commission to any holder of alienated land conferring upon him all or any of the powers mentioned in that section, provided that the powers under clauses (c) to (f) shall not be conferred on holders of lands to which Survey Settlement has not been extended. This section also provides for the investment of holders of alienated villages with any of the powers of a Deputy Commissioner when such holder has, within 30 years before the passing of the Regulation,

regularly exercised corresponding powers. Additional instructions in the matter are contained in Article 178 of the Revenue Manual, Part I, under which certain limitations are imposed. For instance, the power to demand security (*i.e.*, clause (a) for payment of land revenue should not be generally conferred. The power to fix the khistbandi should not also be conferred and the imandar should be required to generally adhere to the usual khistbandi. In practice, all the applications for powers under section 99 are not sanctioned, because not only have the abovesaid conditions to be fulfilled, but also it is equally important to see that the persons aspiring to the exercise of the powers are sufficiently educated and possess at least a working knowledge of Revenue Law and Procedure. With the compulsory introduction of Survey and Settlement into all inam villages, these restrictions may be relaxed and the Committee considered that the grant of Commissions by Government should, therefore, be more liberal, provided the inamdar is otherwise eligible to exercise the powers.

17. The assistance to be rendered by a Revenue Officer to the superior holder for recovery of rent under section 97 is governed by the condition that an application for assistance should be made within two years from the end of the revenue year in which the said rent or land revenue becomes payable. The witnesses examined are almost all in favour of the liberalisation of this Section.

18. After a careful consideration of the matter, the Committee are of opinion that with the compulsory introduction of the settlement, and in view of the other recommendations which the Committee are making in favour of the tenants, there should be no objection whatever to give the inamdars the same right for the recovery of the arrears through revenue processes, as they now have in Civil Courts; that is to say, to enable them to recover all the six years' arrears through revenue agency.

Mr. Chandrasekhariah, though agreeable to the recovery of six years' arrears when any alienated village comes under the management of Government, does not think it desirable to extend the same concession when the villages are managed by the inamdars themselves; but, in view of the opinion expressed by other members, he does not wish to press his objection.

19. A necessary corollary of the above recommendation is that by the extension of time proposed for the recovery of the inamdars' dues through revenue processes, the Government will also be enabled when they take villages under Government management under section 119 (a) of the Land Revenue Code to collect arrears more easily. The Government Officers will thereby automatically have power to recover from the tenants summarily through revenue processes six years' dues instead of two years' arrears. At present, the Government Officers in such cases are at a serious disadvantage, and the raiyats of villages taken over under Government management under the above section (*e.g.*, Dodbagal village in T. Narsipur Taluk) are simultaneously subjected to three different processes for recovery, *viz.*, by revenue officers through revenue agency for the collection of two years' dues, by the Revenue Officers through Civil Courts for more than two years' arrears, and again by the inamdars through Civil Courts for arrears that accrued prior to the assumption of management by Government. The worry and vexation to raiyats, and the delay and complexities in procedure will all be avoided if both the inamdars and the Government are given authority to recover six years' dues through revenue agency under section 97. Of course, the rights of parties to challenge the decision in a Civil Court will not be affected by the conferment of the powers proposed above.

Inamdars and Village Officers.

20. Another direction in which the tenants of inam villages have to be helped is in the compulsory appointment of Patels and Shanbhogs for each inam village and the maintenance of accounts as in Government villages. The existing provisions governing the appointment of village officers and prescribing the accounts to be compulsorily maintained by them and the mode of calculating their remuneration are contained in section 9 of the Village Offices Regulation, Rule 6 and 6 (a) of the Land Revenue Rules and Article 79 of the Revenue Manual, Part I. In the appointment of village officers, inamdars are bound by the same principles as would bind Government in regard to hereditary village servants in unalienated villages. Section 9 of the Village Offices Regulation has to be applied when there

is a vacancy in a hereditary office, but there is no provision anywhere making it obligatory that there should be a Shanbhog and a Patel in an inam village. The Committee have in their itineration come across a number of villages where there are no Shanbhogs or Patels, either because there is no hereditary officer for the village, or because the inamdar has not cared to appoint one. The result is that no regular Khate or Khirdi for the village is maintained for each year, the grant of receipts for payment is uncertain, and the position of the tenant in regard to the correct demand against him is one of insecurity. The Committee noticed a case in which collections were even now being made on an account written in the year *Sarvajit* that is, 47 years ago. They are therefore of opinion that the compulsory appointment of a Shanbhog and Patel to every alienated village should be enforced.

21. A question that arose in the course of the Committee's enquiries was whether in the case of the inamdar himself being the hereditary Shanbhog of the village, he should or should not be allowed to do the duties of the office. The Committee felt that the combination in one person of the position of inamdar and the office of Shanbhog was undesirable as his interest as an inamdar might possibly influence his actions as a Shanbhog in the compilation of the accounts, granting receipts for kandayam paid by tenants, etc., and for this reason they resolved that in cases where the inamdar happens to be also the hereditary Shanbhog, he should be disqualified from holding the latter office as long as he happens to be the inamdar—in other words, that his *hak* might be suspended and that a separate person who is not a member of the undivided family of the *hakdar* might be appointed to officiate. The *hak* need not be forfeited in such cases and if the disqualification ceases, the *hak* should revert. The Committee are also of opinion that where an inamdar is thus debarred from holding the Shanbhogi office, the *potgi* payable to the substitute should be borne by the Government. The Chairman is not satisfied about the propriety of this conclusion, but in view of the unanimous opinion of the other members, he does not wish to press his objection.

Accounts to be maintained.

22. As regards the accounts to be maintained by the Shanbhogs, the question came up before the Commission of 1918, but they did not consider it necessary to change the existing rules and left it to the discretion of the inamdar as before to maintain such accounts as suited his requirements. In view of the difficulties that are experienced by the tenants to know the correct demand and the difficulty of adjudication in the absence of full accounts, the Committee recommends that the Shanbhog in an inam village should be required to maintain, after the introduction of Survey and Settlement, all the accounts maintained in a Government village. The Committee noticed that in some villages, for example, those owned by Mr. Garudachar, a member of the Committee, and Mr. B. V. Krishna Iyengar, all the village accounts were being maintained exactly as in Government villages.

Potgi of Village Officers.

23. As regards the *potgi*, the remuneration in the case of a village which is unsettled is, according to the present rules, governed by usage, or in its absence, shall be fixed by the Deputy Commissioner at a reasonable amount not exceeding the remuneration payable in accordance with the scale sanctioned for Government villages. In villages into which Survey and Settlement have been introduced, the scale of remuneration is the same as that sanctioned for Government villages. The remuneration so fixed, if not voluntarily paid by the inamdar or other person bound to pay the same, can be recovered from him as an arrear of land revenue. The Commission of 1918 considered that there was no need to modify this rule. The present Committee have no alterations to suggest but would only recommend that in computing the *potgi* of the Shanbhog in an inam village the percentage calculation should be made on the assessment of lands already under cultivation, whether by the inamdar or the tenants.

24. The Committee recommend that if the inamdar makes other arrangements for collecting his dues, the Patel need not attend to the collection work, and his *potgi* need not be paid by the inamdar.

Jamabandy.

25. The next question considered by the Committee was whether there was need for an annual jamabandy by the inamdar. In view of the fact that if Survey and Settlement is compulsorily introduced, there would not be much variation in the demand from year to year, the Committee consider it unnecessary to insist on an annual jamabandy by the inamdar. But the inamdar should, be required to sent to the Taluk Office every year account No. IX in addition to accounts Nos. XIV and XV.

Khists.

26. The Committee also consider it necessary in the interests of both the inamdar and the tenants, that facilities should be afforded by the inamdar to his tenants to pay their Kandayam dues according to the prevailing khists as in Government villages. Under the existing law unless the inamdar is authorised by a commission under section 99, Land Revenue Code, to change the Khistbandi at his discretion (*vide* clause 'c'), he is expected to follow the prevailing khists as in Government villages, and power under clause (c) is rarely conferred on an inamdar. Article 178 of the Revenue Manual, Part I, says "The power to change the khistbandi should not be conferred because the inamdar must adhere to the usual khistbandi; or, if he deems a change necessary, he must specify the khistbandi he would propose as reasonable, for the consideration and sanction of Government." Complaints were, however, received that the inamdars demand the full amount in one khist whenever they happen to go to the village. With the appointment of a Patel and a Shanbhog to every inam village, who would be on the spot, there should be no difficulty for the inamdar to make the collection in instalments according to the khistbandi.

Sale of inam villages for arrears.

27. On the other hand, the inamdars represented that an inam village should not be sold for the arrears of the current year's jodi till after the khist season, as the inamdars are expected to recover their rent only in instalments. The request seems reasonable and the Committee recommend that no inam village should be sold for the current year's jodi, etc., earlier than 1st June, though there should be no objection to the adoption of the preliminary coercive processes.

Agents in vritti villages.

28. An allied question is that of the appointment of agents for inam villages where there are several vrittidars or co-sharers. The old rules on the subject are contained in pages 374 and 375, Revenue Manual, Part I. According to them, the co-sharers have to appoint one of them or any other person as an agent to collect and to perform other acts on their behalf within one month after service of a notice upon them. If they fail to make the appointment within that time or such further time as the Deputy Commissioner may grant or if disputes and difficulties arise in the selection of a manager, the Deputy Commissioner is at liberty to nominate and appoint a manager, and he should, if necessary, determine the manner in which he should be remunerated—whether by a fixed salary or by a percentage computed on the annual income or net profits of the estate. The Commission of 1918, while retaining the main provisions, recommended that in making such appointment, the Deputy Commissioner may give preference to one of the vrittidars, failing which the Shanbhog or the Patel may be made the manager if there be no serious objections. They also fixed the remuneration of the agent definitely at five per cent of the gross realisations of the village. These recommendations have been approved in their entirety by the Government in their Order of 2nd July 1925. After careful consideration, the Committee are of opinion that the existing rules are fair and sufficient, but that they require to be strictly enforced.

Remission Rules.

29. A real grievance of the tenants of inam villages is that they cannot obtain remission or abatement of revenue from the inamdars as in Government villages either on an account of failure of rains or of failure of irrigational facilities. At present, inamdars are under no obligation to grant remission of any kind.

The recommendation made by the Commission of 1918 and approved by Government was that "on proof forthcoming of the inamdars granting remission of revenue in case of wide spread failure of crops on the analogy of Government granting remissions, they may be allowed proportionate remission of jodi payable by them." The recommendation therefore was in the nature of a relief to the inamdar who granted remission of his own accord but did not take note of the fact that the inamdar is generally disinclined to forego his demand and is rarely inclined to give any remission. The Committee therefore recommend that the rules regarding the grant of remission of half the wet assessment in the Government villages for failure of rains may be extended to the kadim or permanent tenants in inam villages also, the loss of revenue on account of remission being distributed between the Government and the inamdar in the proportion of jodi and jari. The procedure for grant of such remission should be the same as that prescribed for Government villages, that is to say, the Revenue officers should include inam villages in their itinerary, inspect the crops, the supply of water in the tanks, etc., check the pahanies or other accounts available and make recommendations on receipt of applications for relief from the raiyats. The step now recommended will give real relief to the kadim and permanent tenants in inam villages in times of distress inasmuch as they need only apply to the Amildar of the Taluk who, if satisfied that the tract fulfils the usual conditions for remission, will submit a report to the higher officers for the grant of necessary relief. The remission proposed cannot, of course, be extended to tenants-at-will.

Gomal.

30. The lack of sufficient gomal for the village cattle and their indiscriminate appropriation for cultivation is another hardship complained of by the tenants of some of the villages. The Committee are, however, of opinion that the resolution accepted by Government in paragraph 12 of their Order, dated 22nd January 1927 is sufficient. Before the Inam Commission of 1918, Government were not interfering with the Inamdars' powers to dispose of gomal or communal lands in inam villages. The Commission recommended that a sufficient extent of gomal calculated on the same basis as in Government villages should, in fairness, be allowed by the inamdars also in their villages. Government, accepting the recommendation of the Commission, ordered that the inamdar should not be allowed to dispose of the gomal or other communal lands without the approval of the Deputy Commissioner. The Inamdars' Association again urged that the interference of Government in this matter should be withdrawn. Government in paragraph 12 of their Order of 1927 refused to modify their previous order, but added that the inamdar was at liberty to appeal to Government if he felt aggrieved by the order of the Deputy Commissioner on this subject. The Committee consider that the existing orders are quite fair both to the tenants and to the inamdars and do not require alteration. The introduction of Survey and Settlement will also automatically give relief to the raiyats if land is available for being set apart as gomal.

Restoration and Maintenance of tanks.

31. The neglected condition of irrigation works in inam villages is another source of hardship to the tenants. Till recently, the inamdars had no incentive to get these works restored and maintained in an efficient condition, as, unlike in Government villages, the entire cost of restoration and maintenance devolved on them, the tenants escaping responsibility altogether. In their Orders Nos. R. 28-48--L. R. 482-17-42, dated 2nd July 1925 and R. 4306-26--L. R. 126-25-7, dated 22nd January 1927, Government accepting in the main the recommendations of the Inam Commission of 1918, have held that the responsibility of inamdars and tenants should be enforced on the same principle as in Government villages, and that after the raiyats' share of the cost of restoration is deducted, the balance should be borne by the inamdar and the Government in the proportion of jodi and jari. The inamdars were also to be given the power of enforcing the responsibility of the raiyats for annual maintenance work. It was intended that legislation should be undertaken to give effect to these principles in so far as fresh legislation was necessary. But, unfortunately, the law has not been amended and in practice also, the orders of 1925 and 1927 have remained a dead letter. While a vigorous policy

of tank restoration in Sircar villages has been undertaken by Government during the last six or seven years, the tanks in inam villages have remained without improvement. The orders of Government referred to above seem to be fair and meet the requirements of both inamdars and tenants, and the present Committee therefore recommend that steps be taken to give immediate effect to the said orders, legislation being undertaken where necessary. If this is done, neither the inamdars nor the tenants will have any just grievance in respect of the restoration and maintenance of irrigation works.

Communications and other amenities.

32. In the course of their itineration, representations were made to the Committee by both the inamdars and the raiyats that inam villages were not well served with communications, were not given any share of the grant for public improvements like drinking water wells, etc., and that adequate medical and sanitary facilities were not provided. As a general rule, the condition of inam villages may be said to be not so good as that of Government villages, and the Committee therefore feel that as the different kinds of cesses are being recovered from the inamdars and tenants of inam villages, they are entitled to their proper quota of assistance from Government and District Boards in connection with the various schemes of rural improvement. The District Boards should be required to pay greater attention in respect of communications, drinking water wells and schools in inam villages. The Revenue Department may also be asked to take more interest in the development of Panchayets in inam villages.

Government Management of Inam Villages.

33. The second term of reference will now be taken up. This raises the question whether the existing powers for taking inam villages under Government management are sufficient or require to be extended. The subject came up for consideration before the Inam Commission of 1918, and as a result of their recommendations, Section 119 (a) has been added to the Land Revenue Code. As the law now stands, inam villages may be taken over under Government management under two sets of conditions, *viz.*, (1) under Sections 165 and 166 of the Land Revenue Code when revenues due to Government have fallen into arrears, and (2) under Section 199 (a) of the Code when mismanagement of the inam villages during the minority or unsoundness of mind of the inamdar has been proved. It follows therefore that neither the tenants nor the inamdars can ask for the villages being taken under Government management on grounds other than those covered by the Sections of the Code referred to above. The Committee consider that the existing provisions do not cover all cases of hardship. Want of harmony among the inamdars leads to the exploitation of the situation by the tenants and gross mismanagement by the former causes a situation justifying interference by Government in the interests of both inamdars and tenants. The testimony of both before the Committee was generally in favour of an extension of the existing provisions of law, and after considering all the opinions received by the Committee, they have resolved to recommend that the existing scope for taking over villages under Government management should be enlarged. Where kadim and permanent tenants holding not less than 30% of the occupied lands in an inam village apply to the Deputy Commissioner that the village should be taken over under Government management on account of disputes or misunderstandings between them and the inamdar, the Deputy Commissioner may be required to hold a formal enquiry, and if satisfied that it is necessary to so take the village, he should make a recommendation to Government. Again, where an inamdar or where the village is held in shares or *vrittis*, the sharers or *vrittidars* holding not less than 30 per cent of the lands in the village apply to the Deputy Commissioner that the village should be taken under Government management, on account of misunderstandings between them and their tenants, or on account of disputes among themselves, or for other valid reasons, the Deputy Commissioner may similarly hold a formal enquiry, and if satisfied that the village should be taken over, he should make a recommendation to Government. But, such management should not however be for a period less than eight years, and 9 per cent of the revenue of the village may be required to be paid by the inamdar to Government towards the cost of administration.

The Committee have fixed the above limit in respect of kadim tenants and co-sharers as it would be difficult to get a larger proportion of the tenants or *vrittidars* to join in an application and any concession extended would be a dead letter with a higher percentage. They have fixed the minimum period for taking under Government management at eight years, for the reason, that Government will not be in a position to bring order and systematise the administration of an inam village which has been previously badly managed, in a shorter period, and if Government management has to be beneficial at all, it must extend over a sufficiently long period. The Committee have fixed the charges for management at 9 per cent of the revenue of the village in order to discourage applications on inadequate grounds.

Powers of Government in an Inam Village under their management.

34. Closely allied to the above question is that of extended powers to Government officers when an inam village comes under Government management. Government have repeatedly pointed out that the management of an inam village is an important trust and that the Revenue officers should discharge to the best of their ability the trust imposed on them. The Committee notice that notwithstanding the best efforts made by the Revenue Officers, the collection in inam villages under Government management is not as satisfactory as could be desired. It is for this reason that the Committee feel that Government should have greater powers than under the existing rules in the matter of the collection of arrears. The subject has already been dealt with in paragraph 19 *supra*, and if the amendment therein proposed is sanctioned, the object in view will have been gained.

Cancellation of inam tenure and substitution of cash grant.

35. The third and last term of reference will now be taken up. This question arose out of the discussions in the Legislative Council on the Resolution brought forward by Mr. D. H. Chandrasekhariah. The Committee enquired of all the inamdar-witnesses who appeared before them whether they would agree to their rights as inamdars being acquired by Government and a fixed cash remuneration based on the net realisations of the village granted to them instead. Many of them were opposed to the proposal on the ground that it would affect their prestige and status with the tenants and the general public. But some of them chiefly those that were anxious to get rid of the worry, trouble and the inconvenience of management were quite prepared to approve of such a proposal. Inam villages have been granted by Sovereigns in the past to the family of the inamdars for some kind of meritorious work rendered by them either to the person of the Ruler or to the State or for military services or on account of some act of charity and so on. It is therefore only natural that some sentiment should attach to the position of an inamdar and that that position should carry some amount of prestige in public estimation. It seems therefore out of the question to make such acquisition compulsory. But, where the inamdar is agreeable, the Committee see no objection to power being taken by Government for acquiring such villages and extinguishing their inam tenure, and sanctioning an annual cash grant instead, calculated on the net realisations to the inamdar after making due allowance for prospective expansion of cultivation and revision of assessment at subsequent Settlements. In the case of such acquisitions, all *khas* lands standing in the name of the inamdar will continue in his name and he will have to pay assessment in respect of those lands to Government like any other raiyats holding lands in the village.

Summary of Recommendations.

36. The recommendations of the Committee will now be summarized :—

I. (i) *Survey and Settlement shall be compulsorily introduced into all inam villages to which they have not yet been introduced*, but subject to the condition that the total income of the inamdar from his tenants, permanent or kadim, in cash or in kind or in both, shall not be reduced below what he was getting before the Settlement. The rates of assessment should be so adjusted as to secure this result, provided that in no case shall the assessment fixed exceed the maximum rates fixed for dry, wet and garden lands in the group. All batayi lands shall

be assessed at the Settlement rates of assessment prevailing in the locality (paragraphs 11 and 12).

(ii) As the introduction of Survey and Settlement will be made compulsory, Government should bear the entire cost of operations. The incidental charges for flag-holders, etc., will, as usual, be borne by the inamdar and the villagers (paragraph 13).

(iii) After the introduction of Survey and Settlement, Commissions under Section 99 of the Land Revenue Code, may be sanctioned more liberally to eligible inamdars (paragraph 18).

II. (i) "*Twelve years*" may be substituted for "*twenty years*" in paragraph four of the explanation to Section 79, Land Revenue Code, regarding presumption as to tenures (paragraph 14).

(ii) If disputes arise during Settlement as to whether a tenancy is of a kadim or permanent nature, the Settlement Officer should make a list of such cases and send them to the Deputy Commissioner for necessary action under the Land Revenue Code (paragraph 14).

III. (i) There should be Patels and Shanbhogs for all alienated and kayam-gutta villages. The inamdar, if he also happens to be the *hakdar* should not officiate as the shanbhog as long as he continues to be inamdar. In such an event, a separate person who has no interest as inamdar and who is not a member of the undivided family of the *hakdar* should be appointed as shanbhog-gumasta, the potgi payable in respect of the office being paid by the Government. The shanbhog should, after Settlement, be required to maintain all the accounts maintained in Government villages (paragraphs 20, 21 and 22).

(ii) In computing the potgi of the Shanbhog, the percentage calculation should be made on the assessment of lands actually under cultivation, whether by the inamdar or tenants (paragraph 23).

(iii) If the inamdar makes other arrangements for collecting his dues, the patel need not attend to collection work (paragraph 24).

IV. There is no need for an annual Jamabandy by the inamdar but the inamdar should send to the Taluk Office every year Account No. IX, in addition to Account Nos. XIV and XV (paragraph 25).

V. With regard to gomal, the resolution accepted by Government in paragraph 12 of their Order No. R. 4306-26—L. R. 126-25-7, dated 22nd January 1927 may be given effect to (paragraph 30).

VI. In regard to the restoration of tanks in inam villages, *legislative provision should be made to give effect to paragraphs 2 (Point V) and 7 of Government Order No. R. 21-48—L. R. 482-17-42, dated 2nd July 1925 and Government Order No. R. 4306-26—L. R. 126-25-7, dated 22nd January 1927, respectively, (paragraph 31).*

VII. (i) The scope for taking over villages under Government management should be enlarged. Where Kadim and permanent tenants holding not less than 30 per cent of the occupied lands in an inam village apply to the Deputy Commissioner that the village should be taken under Government management on account of disputes or misunderstandings between them and the inamdar, the Deputy Commissioner shall hold a formal enquiry. If, after such enquiry, he is satisfied that it is necessary that the village should be taken under Government management, he shall make a recommendation to Government to that effect. Again, where an inamdar applies or where an inam village is held in shares or vrittis, and the sharers or vrittidars holding not less than 30 per cent of the extent of the village apply to the Deputy Commissioner that the village should be taken under Government management on account of misunderstandings between them and their tenants, or on account of disputes among themselves or for other valid reasons, the Deputy Commissioner shall hold a formal enquiry and if satisfied that the village should be taken under Government management, he shall make a recommendation to Government to that effect.

(ii) An Inam village shall not be taken under Government management for a period less than eight years, in the circumstances set forth in (i).

(iii) If an inam village is thus taken under Government management, nine per cent of the revenue of the village shall be paid by the inamdar to Government towards the cost of administration (paragraph 33).

VIII. (i) *The period of two years fixed in the proviso to Section 97 of the Land Revenue Code for recovery of rent or land revenue from tenants in an inam village by revenue process should be raised to six years in the case of rent or land revenue payable in cash. In the case of rent or land revenue payable in kind, the existing provision may remain unaltered (paragraph 18).*

(ii) *If an alienated or kayamgutta village is taken under Government management, Government should be empowered to collect all recoverable arrears, i. e., arrears not barred by limitation that were outstanding at the time when the village was taken under Government management, or which accrue subsequently by taking coercive processes as in Government villages (paragraph 19).*

IX. *The rules regarding the grant of remission of half wet assessment in Government villages for failure of rains may be extended to kadim and permanent tenants in inam villages also, the amount of remission being distributed between the Government and the inamdar in the proportion of jodi and jari. The procedure for the grant of such remissions shall be the same as that prescribed for Government villages (paragraph 29).*

X. *Whenever inamdars offer to relinquish their inam rights in any particular village on condition of receiving an annual cash grant calculated on the actual net realisations to the inamdar after making due allowances for prospective expansion of cultivation and revision of assessment at subsequent Settlements, Government shall take power for acquiring such villages and for extinguishing the inam tenure of the village. All Khas lands standing in the name of the inamdars will, however, continue in their name and the inamdars will pay assessment in respect of those lands to Government like other raiyats holding lands in the village (paragraph 35).*

XI. *The District Boards may be required to pay greater attention to the improvement of inam villages in respect of communications, drinking water wells, schools, etc., as local and other cesses are being recovered from the inam villages also (paragraph 32).*

XII. *Where there are several vrittidars or co-sharers in an inam village and the vrittidars or co-sharers fail to appoint an agent, the existing provision in regard to the Government appointing an agent shall be strictly enforced, with a view to the proper management of such village (paragraph 28).*

XIII. *Facilities should be afforded by the inamdars to the tenants of inam villages to pay their kandayam dues according to the prevailing khists as in the case of Government villages (paragraph 26).*

XIV. *No inam village shall be sold for arrears of the current year's revenue earlier than the first June, i. e., till after the close of the khist season. But, there is no objection to taking the preliminary processes, such as the issue of demand notices, etc., as soon as the first khist of the jodi falls into arrears (paragraph 27).*

Conclusion.

37. The Committee are glad that they are in a position to make a unanimous report to Government, although many points of difference arose in the course of their discussions. They wish to express their thanks to the gentlemen, inamdars and tenants, who readily responded to their notice and gave them helpful suggestions. The Committee are also indebted to Mr. S. N. Appanna Iyengar, Deputy Superintendent of Survey, who was the Secretary of the Committee at the earlier stages, and to Mr. T. Ramaiya, who succeeded him, for the zeal and enthusiasm with which they lightened the labours of the Committee and the valuable help rendered by them. The Committee wished to record their appreciation of the work done by the staff deputed for the purpose.

(Sd.) S. HIRIANNAIYA, (*Chairman*).

(Sd.) C. S. KUPPUSWAMIENGAR.

(Sd.) K. CHENGALARAYA REDDY.

(Sd.) D. H. CHANDRASEKHARAIYA.

(Sd.) K. V. ANANTARAMAN.

(Sd.) B. K. GARUDACHAR.

(Sd.) T. RAMAIYA (*Secretary*).

26th August 1933.

Government of his highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. R. 350-409—L. R. 110-33-14, dated 16th July 1935.

Report of the Committee appointed for suggesting measures for improving the condition of tenants in inam and jodi villages in the State.

Passes orders on the ———.

READ—

Government Order No. 20-48—L. R. 482-17-42, dated 2nd July 1925, passing orders on the recommendations of the Inam Commission appointed in the year 1918.

2. Government Order No. R. 4306—L. R. 126-25-7, dated 22nd January 1927, modifying the above order in certain respects.

3. Government Order No. R. 2072-9—L. R. 469-31-4, dated 25th October 1932, appointing a mixed committee of officials and non-officials with the Revenue Commissioner as Chairman for suggesting measures for the amelioration and improvement of the conditions and prospects of tenants in inam and jodi villages of the State.

4. Letter No. C. 4602—31-32, dated 30th August 1933, from the Chairman of the above Committee forwarding a report of the Committee for the orders of Government.

5. Letter No. 41—33-34, dated 1st September 1933, from the Inam Superintendent and Director of Land Records furnishing his views on the question of compulsory introduction of survey and settlement into inam villages.

6. Notification No. R. 1700—L. R. 110-33-6, dated 10th October 1933, publishing the report and calling for the opinion of the public on the subjects dealt with therein.

7. Communications received from the Mysore Inamdars' Association and certain other inamdars and tenants furnishing their views on the various subjects dealt with in the report.

ORDER No. R. 350-409—L. R. 110-33-14, DATED BANGALORE,
THE 16TH JULY 1935.

The relationship between inamdars and tenants has been frequently coming up for the consideration of Government. A Committee was appointed to investigate the question in 1915 and another in 1916. As their investigations were incomplete, a Commission was appointed in 1918 and Government passed orders on its recommendations in their order of 2nd July 1925 read above. As it was represented that the rights of inamdars had been severely curtailed by this order, it was modified in some respects in the order of 22nd January 1927 and certain amendments rendered necessary by these two orders were incorporated in the Mysore Land Revenue Code. It is represented that, in spite of the action so far taken, the relations between the inamdars and their tenants have not improved to any appreciable extent. A resolution was moved in the Legislative Council in June 1932, urging the desirability of appointing a Committee of officials and non-officials to study the present condition of the tenants in inam and jodi villages and to recommend suitable measures for its improvement. Government accepted the resolution and appointed a Committee consisting of the following gentlemen in their order, dated 25th October 1932, read above :—

1. The Revenue Commissioner in Mysore, (Mr. S. Hiriannaiya, M.A., B.L.) *Chairman*.
2. The Deputy Commissioner, Bangalore District, (Mr. K. V. Anantaraman, B.A.)
3. The Deputy Commissioner, Mysore District, (Mr. C. S. Kuppuswamy Iyengar.)
4. Mr. K. Chengalraya Reddy, B.A., B.L.
5. *Rao Bahadur* Mr. B. K. Garudachar.
6. Mr. D. H. Chandrasekharaiya, B.A., LL.B.
7. The Deputy Superintendent of Revenue Survey, (Mr. S. N. Appanna Iyengar, B.A., B.L.) and later the Second Assistant to the Revenue Commissioner, (Mr. T. Ramaiya, B.A.) *Secretary*.

2. The terms of reference to the Committee were as follows :—

(1) To examine the rights and liabilities of inamdars and their tenants under the existing law and to make recommendations with regard to the improvement of the position of the tenants *vis-a-vis* of the landlord ;

No.R. 350-409—L. R. 110-33-14, DATED 16TH JULY 1935.

(2) To examine the question as to whether the provisions regarding the taking of villages under Government management are sufficient and how they can be extended; and

(3) To examine the desirability of undertaking legislation to enable Government to acquire the rights of inamdars for payment in cash or award of compensation in any other manner.

3. The Committee submitted their report in August 1933 after examining the existing law and standing orders on the subject and also the various suggestions made to them in the course of their visits to some typical inam villages in the Bangalore, Kolar and Mysore Districts. The report was published in the *Mysore Gazette* and the opinion of the public was invited on the subjects dealt with therein. Opinions were received from the Mysore Inamdars' Association and from individual inamdars and tenants and Government have considered the report of the Committee and the opinions received. The main recommendations of the Committee fall under the following heads:—

- (1) Compulsory introduction of survey and settlement into inam villages;
- (2) Definition of permanent tenancy under Section 79 of the Land Revenue Code;
- (3) Empowering inamdars to recover six years' dues by revenue processes;
- (4) Compulsory appointment of village officers in inam villages;
- (5) Extending the benefit of Remission Rules to inam villages;
- (6) Enforcing the responsibility of inamdars and tenants as in Government villages in respect of the restoration and maintenance of tanks; and
- (7) Cancellation of the inam tenure of inam villages and substitution of cash grant.

4. The Committee point out that the chief points in respect of which tenants in inam villages need protection are uncertainty of demand and uncertainty of tenure which can only be removed by the compulsory introduction of survey and settlement in inam villages, and they are of opinion that, if this is done, the relations between the inamdar and his tenants will improve to the advantage of both. The Committee consider that, by such compulsory settlement, the total income of the inamdar from his permanent and kadim tenants should not be reduced below what he was getting before the settlement; but, at the same time, they are of opinion that the maximum survey rates should not be exceeded and that the above concession in the settlement rates in favour of the inamdar should be confined to the lands under cultivation at the time of the settlement. They also recommend that the entire cost of the operations both of survey and of settlement should be borne by Government, the incidental charges in respect of flag holders, etc., being, as usual, borne by the inamdar and the villagers.

The Inam Superintendent is not in favour of this proposal. He considers that it would not be right to expect the general tax-payer to defray the cost of survey and settlement of all the inam villages in the State for the benefit of the holders who enjoy a partial or total exemption from land revenue. He therefore thinks that the object intended would be equally well served by introducing the Record of Rights compulsorily at the cost of the inamdars in all alienated villages whether already surveyed or not. Government prefer to accept the recommendation of the Committee and are accordingly pleased to direct the compulsory introduction of survey and settlement in inam villages, the cost being borne by Government as recommended, except the incidental charges in respect of flag-holders, etc., which should be borne by the inamdar and his tenants. As regards the survey rates, the Committee's recommendation is to the effect that the existing income of the inamdar should not be reduced, so far as this can be secured without exceeding the maximum rates applicable to the locality. Government accept this view. *Per contra*, the tenants should have the benefit of the general rules as to the maximum extent of increase permissible over the existing assessment for the village and for the individual fields. As regards lands not actually under cultivation, the assessment should be fixed in the usual manner.

5. According to paragraph (4) of the explanation to Section 79 of the Mysore Land Revenue Code, a presumption as to permanent tenancy will be raised where, in the absence of a contract regarding the nature and duration of the tenancy, the tenant has established that he has been in continuous possession paying a fixed rent for a period of twenty years or more. The Committee recommend that the period of twenty years mentioned in this paragraph may be changed to twelve

Introduction of survey and settlement.

Definition of permanent tenancy.

No. R. 350-409—L. R. 110-33-14, DATED 16TH JULY 1935.

years as ordinarily uninterrupted possession of immovable property for that period would raise, under the general law, a rebuttable presumption of title. As regards the question as to who should enquire and determine the question relating to the nature of the tenancy, a majority of the members of the Committee consider that such a power, involving a judicial decision of civil rights of parties, should not be conferred on Survey Officers, but that the Settlement Officer should be required to make a list of all cases in which disputes are brought before him as regards the kadim or permanent nature of the tenancy rights and to send the list to the Deputy Commissioner for necessary sanction under the Land Revenue Code. Government approve of both these recommendations.

6. In order to improve the position of the tenants while at the same time protecting the interests of the inamdars, the Committee consider that better facilities should be afforded to the inamdars to collect rents due to them and with these objects in view, they recommend.—

Empowering inamdars to recover six years' dues by revenue processes.

(1) that, after the introduction of survey and settlement, Commissions under Section 99 of the Land Revenue Code should be granted more liberally than at present to eligible inamdars; and

(2) that the period of two years fixed in the proviso to Section 97 of the Land Revenue Code for seeking the assistance of the Deputy Commissioner in connection with the recovery of rent or land revenue by revenue processes should be raised to six years in cases in which the rent or land revenue is payable in cash, the existing provision remaining unaltered in the case of rent in kind.

Under Section 99 of the Land Revenue Code, it is competent to Government to issue a commission to a holder of alienated lands conferring upon him all or any of the powers mentioned in clauses (a) to (f) of that section, provided that the powers under clauses (c) to (f) are to be conferred only on holders of land to which a survey settlement has been introduced. With the compulsory introduction of survey and settlement, the restrictions imposed in the proviso cease to operate and it would be possible to grant commissions as recommended by the Committee on a more liberal scale than at present, subject of course to the condition that the inamdars applying for the concessions possess sufficient education and a working knowledge of land revenue law and are otherwise eligible to exercise the powers. The second recommendation as regards recovery of arrears of rent through revenue process is based on the fact that a right already exists for the inamdars to recover arrears for six years through civil courts, and recovery by revenue process instead of through the civil courts is advantageous both to the inamdar and the tenants. As regards inam villages under Government management, the power to recover arrears up to six years has been given to Revenue officers subject to certain conditions by Regulation V of 1934. Government consider that the same facilities may be extended in the case of all inam villages when survey and settlement have been introduced.

7. The Committee are of opinion that the appointment of a shanbhog and patel to every alienated village should be enforced. Neither the Inamdars' Association nor the inamdars who have furnished their opinion on this recommendation are in favour of this. Government consider that there is much to be said in favour of the view that the inamdar should not be compelled to employ shanbhogs and patels but should be at liberty to make any arrangement he likes to collect the revenue, grant receipts, maintain and submit to the Government authorities the required accounts and to perform the police duties required by Government of a village head man. If he wishes to do the work himself or to employ any other agency on payment of a salary, he should be at liberty to do so. Where shanbhogs and patels are employed, they should be paid *potgi* under the existing rules.

Compulsory appointment of village officers in inam villages.

8. In view of the difficulties that are experienced by the tenants in knowing the correct demand, and the difficulty of adjudication in the absence of full accounts, the Committee recommend that the shanbhog in an inam village should be required to maintain, after the introduction of survey and settlement, all the accounts maintained in a Government village. Government approve of this proposal. Where there is no shanbhog, the accounts should be maintained by the inamdar or his agent or an accountant employed by him.

Maintenance of accounts.

No. R. 350-409—L. R. 110-33-14, DATED 16TH JULY 1935.

9. The Committee recommend that, in computing the *potgi* of the shanbhog in an inam village as per existing rules, the percentage calculation should be made on the assessment of lands already under cultivation, whether by the inamdar or tenant. They also recommend that, if the inamdar makes other arrangements for collecting his dues, the patel need not attend to the collection work and his *potgi* need not be paid by the inamdar. Government accept the above recommendations.

Potgi of village officers.

10. In view of the fact that, when survey and settlement are compulsorily introduced, there is no likelihood of much variation in the demand from year to year, the Committee consider it unnecessary to insist on an annual *jamabandi* by the inamdar. But they recommend that the inamdar should be required to send to the Taluk Office every year Account No. IX in addition to Accounts Nos. XIV and XV. These recommendations are accepted.

Jamabandi.

11. The Committee consider it necessary in the interests of both the inamdar and tenants that facilities should be afforded by the inamdar to his tenants to pay their *kandayam* according to the prevailing *khists* as in Government villages. They point out that, under article 178 of the Revenue Manual, Part I, the power to change the *khistbandi* should not be conferred on the inamdar under Section 99 (c) of the Land Revenue Code, because the inamdar must adhere to the usual *khistbandi* or if he deems a change necessary, he should specify the *khistbandi* he would propose as reasonable for the consideration and sanction of Government. They therefore recommend that the system of *khists* prevailing in Government villages should be invariably adhered to; and that failure to pay any *khist* should make the balance immediately payable. Government accept this recommendation.

Khist.

12. The Committee recommend that, in view of the fact that inamdars are expected to recover their rent only in instalments, the inam village should be sold for the current year's jodi, etc., earlier than 1st June though there should be no objection to the adoption of the preliminary coercive processes. The recommendation is accepted.

Sale of inam villages for arrears.

13. The rules regarding the appointment of agents for inam villages where there are several vrittidars or co-sharers are contained in pages 374 and 375 of the Revenue Manual, Part I. According to these rules, the co-sharers have to appoint one of them or any other person as agent to collect and to perform other acts on their behalf within one month after service of notice upon them. If they fail to make the appointment within that time or such further time as the Deputy Commissioner may grant, or if disputes and difficulties arise in the selection of a manager, the Deputy Commissioner is at liberty to nominate and appoint a manager, and he should, if necessary, determine the manner in which he should be remunerated—whether by a fixed salary or by a percentage computed on the annual income or net profits of the estate. The Commission of 1918, while retaining the main provisions, recommended that, in making such appointment, the Deputy Commissioner may give preference to one of the vrittidars, failing which the shanbhog or the patel may be made the manager if there be no serious objection. They also fixed the remuneration of the agent definitely at five per cent of the gross realisations of the village. These recommendations have been approved in their entirety by Government in their Order of 2nd July 1925. After careful consideration, the Committee are of opinion that the existing rules are fair and sufficient but that they require to be strictly enforced. Government accept the Committee's views.

Agents in vritti villages.

14. The Committee recommend that the rules regarding the remission of half wet assessment in Government villages for failure of rains may be extended to kadiam or permanent tenants in inam villages also, the loss of revenue being distributed between the Government and the inamdar in the proportion of jodi and jari. They consider that the procedure for the grant of such remission should be the same as that prescribed for Government villages, that is to say, the Revenue officers should include inam villages in their itinerary, inspect the crops, the supply of water in the tanks, etc., check the *pahanies* or

Extending the benefit of remission rules to inam villages.

No. R. 350-409—L. R. 110-53-14, DATED 16TH JULY 1935.

other accounts available and make recommendations on receipt of applications for relief from the raiyats and that the remission proposed is not to be extended to the tenants at will. The Inamdars' Association and the inamdars who offered their opinion are agreeable to this. Government accept the recommendations of the Committee. The permanent tenants in inam villages should be entitled to remission under the ordinary rules applicable to Government villages, the reduction in revenue due to this being divided between the Government and the inamdar in the proportion of the jodi and the jari.

15. Before the Inam Commission of 1918, Government were not interfering with the inamdars' powers to dispose of *gomal* or communal lands in inam villages. The Commission recommended that a sufficient extent of *gomal* calculated on the same basis as in Government villages should in fairness be allowed by the inamdars also in their villages. Government, accepting the recommendation of the Commission, ordered that the inamdar should not be allowed to dispose of the *gomal* or other communal lands without the approval of the Deputy Commissioner. The Inamdars' Association again urged that the interference of Government in this matter should be withdrawn. Government in paragraph 12 of their Order of 22nd January 1927 refused to modify their previous order, but added that the inamdar was at liberty to appeal to Government if he felt aggrieved by the order of the Deputy Commissioner on this subject. The Committee consider that the existing orders are quite fair both to the tenants and to the inamdars and do not require alteration. They observe that the introduction of survey and settlement will automatically give relief to the raiyats if land is available for being set apart as *gomal*. Government accept the views of the Committee.

16. While passing orders on the recommendation of the Inam Commission of 1918, Government directed that the responsibility of inamdars and tenants should be enforced on the same principle as in Government villages, that after the raiyats' share of the cost of the restoration is deducted, the balance should be borne by the inamdar and the Government in the proportion of jodi and jari and that the inamdars should be given the power of enforcing the responsibility of the raiyats for the annual maintenance work. But as no legislation was undertaken to give effect to these principles, no effect has been given to the orders of Government. The Committee consider that the orders already passed by Government meet the requirements of both the inamdars and tenants and they accordingly recommend that steps be taken to give immediate effect to the said order, legislation being undertaken at the same time where necessary. Government accept the recommendation of the Committee.

17. The Committee bring to notice that, in the course of their itineration, representations were made to them both by the inamdars and the raiyats that inam villages were not well served with communications, were not given any share of the grants for public improvements like drinking water wells, etc., and that adequate medical and sanitary facilities were not provided. As a general rule, the condition of inam villages may be said to be not so good as that of Government villages. The Committee therefore consider that, as the different kinds of cesses are being recovered from the inamdars and tenants of inam villages, they are entitled to their proper quota of assistance from Government and District Boards in connection with the various schemes of rural improvement. They suggest that District Boards should be required to pay greater attention in respect of communications, drinking-water wells and schools in inam villages and that the Revenue Department should also be asked to take more interest in the development of Panchayets in such villages. Government approve of both the suggestions.

18. As the law now stands, inam villages may be taken over under Government management under two sets of conditions, namely,

(1) Under Sections 165 and 166 of the Land Revenue Code when revenues due to Government have fallen into arrears; and

(2) Under Section 199 (a) of the Code when mismanagement of the inam villages during the minority or unsoundness of mind of the inamdar has been proved.

It follows from the above that neither the tenants nor the inamdars can ask for the villages being taken under Government management on grounds other

No. R. 350-409—L. R. 110-33-14, DATED 16TH JULY 1935.

than those covered by the sections of the Code referred to above. The Committee consider that the existing provisions do not cover all cases of hardship, that want of harmony among the inamdars leads to the exploitation of the situation by the tenants and gross mismanagement by the inamdars causes a situation justifying interference by Government in the interests of both inamdars and tenants. After considering all the opinions received both from inamdars and from tenants, the Committee consider that the existing scope for taking over villages under Government management should be enlarged. They accordingly recommend that, where kadim and permanent tenants holding not less than 30 per cent of the occupied lands in an inam village apply to the Deputy Commissioner that the village should be taken over under Government management on account of disputes or misunderstandings between them and the inamdar, the Deputy Commissioner may be required to hold a formal enquiry and if satisfied that it is necessary to take over the village, he should make a recommendation to Government. They suggest further that, where an inamdar or where the village is held in shares or *vritties*, the sharers or *vrittidars* holding not less than 30 per cent of the lands in the village apply to the Deputy Commissioner that the village should be taken under Government management on account of misunderstandings between them and their tenants or on account of disputes among themselves or for other valid reasons, the Deputy Commissioner may similarly hold a formal enquiry and if satisfied that the village should be taken over, he should make a recommendation to Government. But such management should not, in the opinion of the Committee, be for a period less than eight years and 9 per cent of the revenue of the village may be required to be paid by the inamdar to Government towards the cost of administration. The Inamdars' Association and the inamdars who have offered their opinion on these recommendations want that the percentage of those desiring the villages being taken over under Government management should be raised to 66 $\frac{2}{3}$, 75 or 80. Government accept the recommendations of the Committee with the modification that action should be taken only if not less than 50 per cent of tenants or 50 per cent of *vrittidars* desire Government management of inam villages.

19. Many of the inamdars who were examined by the Committee are stated to be opposed to the proposal relating to the acquisition of their rights as inamdars by Government on payment of a fixed cash remuneration on the ground that it would affect their prestige and status while some others, chiefly those that were anxious to get rid of the worry and trouble of management, were quite prepared to approve of such a proposal. The Committee consider that it is out of the question to make such acquisition compulsory as some sentiment attaches to the position of an inamdar and that position should carry some prestige in public estimation. They, therefore, recommend that, in cases where the inamdar is agreeable, power may be taken by Government for acquiring such villages and extinguishing their inam tenure and sanctioning an annual cash grant instead, calculated on the net realisations to the inamdar after making due allowance for prospective expansion of cultivation and revision of assessment at subsequent settlements. They also suggest that, in the case of such acquisitions, all *khas* lands standing in the name of the inamdar should continue in his name and that he should have to pay assessment in respect of those lands to Government like any other raiyats holding lands in the village. Government accept the recommendations of the Committee.

20. The changes in the existing law rendered necessary by these orders will be effected as soon as possible.

21. Government wish to place on record their appreciation of the work of the Committee and of the exhaustive report submitted by them. Their thanks are due to the Chairman and members of the Committee as well as to the general body of inamdars and tenants who furnished the Committee with their opinions on the various points dealt with in the Report.

K. V. ANANTARAMAN,
Offg. Chief Secretary to Government.

To—The Revenue Commissioner in Mysore.
The Chairman and Members of the Committee.
The Heads of Departments.
The Secretaries to Government.
The Deputy Commissioners of Districts.

PRESS TABLE.

Exd.—C. K.

Government of his highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS.

No. R. 2652-723—L. R. —208-34-4, dated 30th October 1935.

Report of the Agriculturists' Relief Committee in Mysore.

Passing orders on the ———.

READ—

Government Order No. R. 302-73—L. R. 221-33, dated 20th July 1934, appointing a Committee to advise Government in the matter of affording further relief to the raiyats in the present period of depression:

2. Letter No. C. 308, dated 18th January 1935, from the Chairman of the Committee submitting their report.

ORDER No. R. 2652-723—L. R. 208-34-4, DATED BANGALORE,

THE 30TH OCTOBER 1935.

The continuous fall in the prices of agricultural produce in the State during the past few years has been causing considerable anxiety to the people and the Government.

Various measures have been sanctioned from time to time to afford relief to the agricultural population. At the session of the Legislative Council held in June 1934, several non-official members urged that the concessions sanctioned by Government were inadequate and that the extension of the Agriculturists' Relief Regulation to the whole State had added to the trouble by disturbing the credit of the agricultural classes. Government thereupon appointed a Committee consisting of the following official and non-official gentlemen to study the situation and submit their recommendations:—

1. Mr. N. Madhava Rau, B.A., B.L., Revenue Commissioner in Mysore, (now Member of Council) CHAIRMAN.
2. " K. V. Anantaraman, B.A., Officiating Inspector-General of Police (now Revenue Commissioner) in Mysore.
3. " A. K. Yegnanarayana Iyer, M.A., N.D.D., Director of Agriculture (since retired).
4. " T. G. Rama Iyer, B.A., Deputy Commissioner, Kolar.
5. " M. G. Mehkri, B.A., LL.B., Registrar of Co-operative Societies.
6. " T. V. A. Isvaran, B.A., Deputy Commissioner, Shimoga.
7. *Rajasabhabhushana Diwan Bahadur* K. R. Srinivasa Iyengar, M.A., Retired Member of Council.
8. *Bao Bahadur* B. K. Garudachar, President, City Municipal Council, Bangalore.
9. Mr. J. Mohamed Imam, B.A., B.L., Member, Legislative Council, Jagalur.
10. " K. Chengalaraya Reddy, B.A., B.L., Member, Legislative Council, Bowringpet.
11. " B. S. Puttaswamy, B.A., B.L., Member, Legislative Council, Mysore.
12. " Hosakoppa Krishna Rao, Member, Representative Assembly, Hosakoppa, Kadur District.
13. " S. K. Venkataramana Iyer, B.A., B.L., Assistant Commissioner (SECRETARY).

The Committee were requested (1) to make a rapid enquiry into the extent to which the fall in the prices of agricultural produce in recent years had affected the resources, debt obligations and credit facilities of the land-owning and cultivating classes in different parts of the State; and (2) to report upon the nature and extent of the assistance that might be given to relieve them from the difficulties caused by the present depression, after an examination of the several measures suggested in this behalf, and having in view the present financial condition of the State.

2. Pending the formulation of detailed proposals on the several points referred to them, the Committee submitted *interim* recommendations to Government for the grant of certain urgent measures of relief. These are referred to in detail in Annexure 1 to this order, in which the orders of Government thereon are also indicated.

Interim recommendations.

No. R. 2652-723—L. R. 208-34-4, DATED 30TH OCTOBER 1935.

3. The Committee have considered the matters referred to them in a thorough and exhaustive manner, and have now submitted their final report. The subjects considered by them may be classified under the following heads:—

- Classification of main recommendations.*
1. *Dues to Government.*—
 - (a) Concessions in regard to the payment of land revenue and remission of assessment;
 - (b) Reduction of land revenue demand on a percentage basis;
 - (c) Concessions in regard to miscellaneous demands, such as fees under the Record of Rights Regulation, liability for tank maintenance, etc.
 2. *Agricultural Indebtedness.*—
 - (a) Relief in respect of decrees obtained by Co-operative Societies;
 - (b) Constitution of Debt Conciliation Boards;
 - (c) Reduction of interest on debts of agriculturists.
 3. *Agricultural Finance.*—
 - (1) Concessions in respect of the grant and recovery of land improvement and takavi loans;
 - (2) Extension of co-operative institutions and land mortgage societies.

4. Government have already sanctioned several measures of relief in regard to remission of revenue, moderation of miscellaneous demands and relaxation of coercive processes. The Committee have recommended that these concessions, which afford fairly tangible relief to the agriculturists, and which had lapsed at the end of December 1934 should be continued so long as the present depression lasts. Government accepted the recommendation of the Committee and extended the concessions up to the end of June 1935. They will be prepared to extend them further if the depression continues.

Extension of concessions regarding collection of land revenue and other demands.

5. The land revenue is at present collected in four instalments, commencing from February. On default in the payment of any one instalment, the occupant is liable to be called upon to pay the entire demand for the year, including the instalments which have not fallen due. The Committee consider that it will be a relief to the raiyats if they are allowed to pay only the overdue instalments and if coercive steps are suspended on such payment. Government accepted the recommendation and directed that this concession be allowed during the year 1934-35. The Committee consider that, in areas where cotton is the principal crop, the land revenue can be paid by the raiyats only after March or April as the crop is generally harvested in March. They, therefore, suggest that the adoption of coercive steps for recovery of assessment in those taluks where the bulk of land revenue is collected from lands on which cotton is grown may be deferred till the end of March. Government accept this recommendation. The Revenue Commissioner is requested to issue necessary instructions accordingly.

Collection of overdue instalments of land revenue.

6. In view of the failure of crops in 1934-35 in certain parts of the State, following a series of years of depression, the Committee suggested that, in tracts where the crops had completely failed and the conditions bordered on distress, the question of granting some concession by way of remission of a part of the assessment on dry lands might be favourably considered. The existing rules make no provision for the remission of dry assessment in case of failure of rains; but in tracts which have suffered severely by drought, Government are always prepared, as a special concession outside the rules, to sanction suspensions and, where necessary, even remission of a portion of the demand. Accordingly, Government have sanctioned the remission of 25 per cent of the dry assessment in some of the affected tracts in the Kolar District.

Special concessions for dry lands.

7. Under the existing rules, the remission of half the wet assessment may be sanctioned if, owing to failure of rains, more than half the area of wet lands under a tank has remained uncultivated, or, if cultivated, has yielded a crop of not more than four annas, and if, further, the tract has already been so impoverished or the previous years' harvests have been so poor as to render relief necessary. The second condition was relaxed last year and Deputy Commissioners were

Change in the wet assessment remission rules.

No. R. 2652-723—L. R. 208-34-4, DATED 30TH OCTOBER 1935.

instructed not to withhold recommendations for remission in cases, which satisfied the other conditions of eligibility, merely on the ground that the previous harvests in the tract had been normal. The Committee considered that, as the economic depression still continued, this restrictive condition should be suspended during 1934-35 also. Government accepted this recommendation. The Committee also suggested that the other condition, namely, that more than half the area should have remained uncultivated should also be relaxed as the entire *atchkat* under certain tanks may not be cultivated even in normal years. Under the system followed in Mysore, the rates of assessment are based on considerations of average yields of crops over a series of years of good, moderate and deficient rainfall. There was thus no provision in the rules formerly for remission, but Government have in recent years adopted a policy of granting a remission of a portion of the wet assessment when there is a widespread failure of crops due to drought, flood, etc. The rule that remission of half wet assessment may be sanctioned only when at least half the *atchkat* has been affected is intended to ensure that the relief is limited to cases of failure of rains over an entire tract, and is not given when only a few individual fields suffer. In a season of widespread drought the probability is that practically the whole of the *atchkat* remains uncultivated or yields four annas or less. The rule is not likely to cause any hardship in practice and Government do not consider it necessary to relax it. As regards the *quantum* of remission, one-half of the wet assessment is ordinarily remitted. But in cases where dry crops are raised and yield more than an eight-anna crop, the amount remitted is one-half of the difference between the wet and dry rates. In respect of lands which are not cultivated at all, or, if cultivated, have yielded a crop of four annas and less, a majority of the members of the Committee consider that the return to the raiyat in such cases may not even cover the cost of seed and other expenses of cultivation. They therefore recommend that, in these cases, the highest dry rate or half the wet assessment, whichever is less, may be imposed and the balance remitted. But the other members feel that the grant of remission of half the wet assessment is itself a concession and that the circumstances of the present situation do not warrant a wholly different method being adopted for determining the amount of remission to be given in such cases. Government consider that the existing rule is quite equitable and requires no modification.

8. Representations have been made to Government in the Representative Assembly and elsewhere that the burden of land revenue has increased owing to the fall in prices and that the payment of land revenue at the existing rates constitutes one of the causes of agricultural indebtedness. Two proposals have been made to deal with the situation:

Reduction of land revenue demand on a percentage basis.

- (1) that the assessment should be reduced to the level of the original settlements, or
- (2) that a portion of the existing rates should be remitted temporarily (the exact figure suggested varying from 12½ to 25 per cent).

The majority of the members are against any general percentage reduction of the land revenue. In their view, the plea for any kind of general remission has lost much of its force owing to the marked increase which has since occurred in the prices of the more important agricultural products of the State, such as ragi, paddy, jola and horse-gram. The difficulties, arising as a result of untimely and inadequate rainfall, are essentially of a local character and cannot require or justify any general remission. The land revenue assessment now prevailing is well within the conventional one-sixth of the gross produce or half the net produce, and it cannot be said that the pitch of assessment itself is too high. The proposal to reduce the assessment all round by a definite percentage fails to discriminate between cases which deserve relief and those which do not. While it would result in a substantial loss of revenue to the State, there is no certainty that the measure would bring any tangible benefit to the agriculturists as a majority of khatedars are small landholders who have been paying their assessment without much difficulty. Government consider, after a careful consideration of the dissenting views expressed by some members, that a percentage reduction, irrespective of other conditions, is neither necessary, nor just, nor expedient, and that it will be far more beneficial

No. R. 2652-723—L. R. 208-34-4, DATED 30TH OCTOBER 1935.

to adopt a policy of discriminating relief, of which the principal features are the following:—

- (1) Grant of remissions on a liberal scale in tracts which suffer from a failure of crops coinciding with a slump in prices;
- (2) Moderation of several miscellaneous revenue demands which form in some taluks a considerable addition to the land revenue assessment; and
- (3) Relaxation of coercive processes for collection of revenue.

Government accordingly passed orders, suspending the collection of land revenue and miscellaneous demands in certain affected tracts to the extent of Rs. 4½ lakhs and sanctioning remission of half wet assessment to the extent of Rs. 2½ lakhs in the case of tanks which received an inadequate supply of water.

9. The Committee consider that the existing rate of mutation fees, namely eight annas for a survey number subject to a maximum of Rs. 5 for all the numbers in a village included in a transaction is heavy. They therefore recommend that this rate may be reduced to four annas per survey number, subject to a maximum of Rs. 2. The Revenue Commissioner and the Director of Land Records, who were consulted in the matter, are not in favour of the proposal. Government consider that, as the scale of mutation fees has already been revised and the amount now levied only covers the cost of establishment, it cannot be further reduced.

10. The Committee bring to notice that the amount recovered from the raiyats for their neglect to carry out tank maintenance work is sometimes excessive. Prior to 1927, the maximum amount that could be levied on this account, in cases of cumulative neglect, was limited to one year's assessment on the lands included in the *atchkat* of the tank. As this limitation tended to put a premium on neglect, it was modified in 1927 so as to allow of the recovery, in suitable cases, of the entire expenditure incurred for the purpose. The Committee consider that there might be justification for recovering the entire expenditure in cases where the raiyats have wilfully or defiantly neglected the work. But in other cases, they recommend that, until general conditions improve, the maximum limit of the raiyats' liability may be restricted as before to one year's assessment on the *atchkat* lands. Government are not in favour of changing the rules as suggested. They are, however, pleased to authorise the Revenue Commissioner to waive a part (or where necessary, even the whole) of the demand against the raiyats under this head in respect of works taken up during the period of distress for providing labour to the people.

11. As regards acreage contribution recoverable from the raiyats benefited by the restoration or improvement of works of irrigation, the Committee point out that, although the maximum period allowed for payment is ten years, the periods actually fixed are much shorter. As the rate of contribution is rather high and the payment of one-tenth of this amount every year together with the water-rate may, in some cases, be a heavy burden, the Committee suggest that, in cases where the contribution or a substantial part of it is not recovered in a lumpsum before an irrigation work is commenced, its collection may be spread over a sufficiently long period so that the raiyats can easily pay the same out of their income from the benefited lands. Government accept the recommendation of the Committee and direct that, during the period of depression, the number of instalments of acreage contribution in respect of works of irrigation restored or improved be fixed at ten in the case of works costing less than Rs. 25,000. In the case of larger irrigation works, more than ten instalments are allowed in practice. In special cases, where the raiyats experience difficulty in payment, Government will be prepared to permit the recoveries being either postponed or the annual instalments being reduced.

12. The Committee estimate that the total agricultural indebtedness in the State amounts to not less than 35 crores of rupees. They further understand, from enquiries made, that the volume of debt is on the increase and that, in a fairly large number of cases, the debt is very nearly equal to, if not greater than, the value of the assets. The principal measures recommended by the Committee to deal with this situation are the expansion of land mortgage banks in order to enable the agriculturists to convert

No. R. 2652-723—L. R. 208-34-4, DATED 30TH OCTOBER 1935.

their debts to long-term loans which may be repaid out of current income, and the reduction of agricultural debts by conciliation between debtors and creditors. The operations of the Mysore Co-operative Land Mortgage Bank have already been extended to twenty-two taluks and it is the desire of Government that the scheme should be extended as rapidly as possible to other parts of the State also. There will however remain a large number of cases in which it is impossible for the debtors to discharge their liabilities in full, even though converted into long-term loans. To deal with such cases, a scheme of composition of debts of agriculturists, through Conciliation Boards, has been recommended by the Committee. After considering the recommendations made in this respect by the Royal Commission on Agriculture and the Indian Banking Enquiry Committee and examining the schemes of conciliation attempted in Bhavanagar, the Central Provinces and the Punjab, the Committee have formulated the following scheme.

A debtor or any of his creditors may apply to the Civil Court of competent jurisdiction to effect a settlement. The court may appoint a Conciliation Board consisting of three to five members, of whom an equal number will be nominated by the debtors and the creditors respectively, the Chairman being selected by the court. The Board will call upon the debtor and his creditors to explain their respective cases and endeavour to secure an amicable settlement, and for that purpose, it will have the power to require the attendance of witnesses and the production of documents and to receive evidence. It may submit for the opinion of the court any question of law involved. If all or any of the creditors come to an amicable settlement with the debtor, such settlement will be reduced to writing in the form of an agreement, recording the amounts payable to the creditors and the manner in which, and the times at which, they are to be paid. The court shall pass a decree in terms of such agreement. If a debtor makes default in paying any amount fixed under a decree, such amount will be recoverable, in the first instance, as an arrear of land revenue, on the application of the creditor, made within 90 days of the date of default, and if the Deputy Commissioner fails to recover any part of the amount as an arrear of land revenue, the matter should be reported to the civil court, and thereafter, the amount will be recoverable through the processes of the court. If, however, any creditor does not come to an amicable settlement, the Board may, if it is satisfied that the debtor has made a fair offer, which the creditor ought reasonably to have accepted, grant the debtor a certificate in such form as may be prescribed in respect of the debts owed by him to such creditor, provided that the creditors to whom not less than 40 per cent of the debts are due have come to a settlement. In the event of a creditor filing a suit for the recovery of debts in respect of which a certificate shall have been granted, the court shall not allow the plaintiff any costs in such suit, or any interest on the debt after the date of certification in excess of simple interest at six per cent per annum on the amount due on the date of such certificate, and if the suit is in respect of an unsecured debt, the execution of the decree passed in the suit shall be postponed till all amounts due under the settlement are paid, or till the agreement has ceased to subsist. Reference to Conciliation Boards is proposed to be limited to cases in which the total amount of debt does not exceed Rs. 10,000.

13. The Committee are not unanimous on the question whether conciliation should be voluntary or compulsory. Some members consider that the principle of compulsory conciliation would affect the credit of the agriculturists and that therefore the scheme should be only on a voluntary basis. While all the members are agreed about the desirability of introducing a scheme of voluntary conciliation, some of them are inclined to doubt whether this would, by itself, be sufficient. The latter therefore suggest that, while the scheme might generally be of a voluntary character, the possibility of having to introduce some measure of compulsion should not be overlooked and that suitable legislation should be undertaken to enable Government to extend the scheme on a compulsory basis in areas in which it is found to be necessary or expedient. As regards the means of re-paying the conciliated debt, the Committee are of opinion that the payment of the debt by the State either in cash or by bonds is out of the question, in view of the largeness of the amount involved. They therefore suggest

Conciliation : voluntary or compulsory.

No. R. 2652-723—L. R. 208-34-4, DATED 30TH OCTOBER 1935.

that, wherever possible, efforts should be made to pay off the liquidated debt or a portion of it through co-operative societies or land mortgage banks according to the length of the term over which the recovery has to be spread. The Committee recognise that these agencies can help only in cases where the debtor has adequate security to offer and that there will still remain a class of debtors whose conciliated debt, being far in excess of their assets, must be dealt with in a different manner. They recommend that such debtors should be afforded a chance of surrendering all their assets and of being adjudged insolvents so that they may earn their living, freed from the perpetual bondage of an impossible debt.

14. Government agree with the Committee that a scheme of debt conciliation may be introduced as an experimental measure in a few selected areas. The scheme proposed by the Committee is generally acceptable, but a few modifications appear to be necessary. The Committee's proposal to have Conciliation Boards *ad hoc* for each case may lead to a want of uniformity regarding the guiding principles and procedure adopted by different Boards in the same locality. It is necessary that, in the settlement of cases, some general principles should be uniformly followed. In this view, a permanent Board for each local area, to deal with all the cases arising there, appears to be necessary. The Conciliation Board should moreover be in a position, as recommended by the Committee, to negotiate loans, wherever necessary from a land mortgage bank or co-operative society, as the creditor will expect payment in cash of the reduced amount of the debt. All this requires that, for each local area, there should be a permanent Board and it is desirable that the Chairman of the Board should be an official. There should be two or more additional members of the Board who should be appointed by Government. The Board's decisions should be regarded as a decree binding on the debtor and the creditor, if they agree. Where there are several creditors, the decree will be binding only if the settlement is agreed to by creditors to whom not less than 50 per cent of the debts are due. Where there are both secured and unsecured debts, the further condition should be satisfied that creditors, to whom not less than 50 per cent of the secured debts are due, agree to the settlement. When a settlement is arrived at, the Board will attempt to arrange payment to the creditor of the amounts of their debts as settled through a land mortgage bank or a co-operative society and where this is not possible, the amount due will be recovered by the Deputy Commissioner as an arrear of land revenue. If it is not recovered, the agreement (as regards time and manner of payment of the reduced debt) will cease to subsist and creditors will have their usual remedies through the Civil Courts (by way of execution proceedings). No court fees will be levied, but stamp duty will be only as for applications. In cases where the liquidated debt is far in excess of the assets, the Conciliation Board may act as an Insolvency Court, as proposed by the Committee. A scheme, as outlined above, is what Government have provisionally in view, subject to further consideration and examination of details, in consultation with the High Court.

15. The Agriculturists' Relief Regulation of 1928 which has been extended to all parts of the State was enacted in order to prevent the sale of agricultural land on account of debts of the cultivator which are not secured by a mortgage on the lands, and to permit agriculturists to pay their debts in instalments. It has been reported that this has adversely affected the credit of the agriculturists. The Committee consider that, with the introduction of certain safeguards, the Regulation is bound to prove of benefit to the agriculturists. The question of amending the Regulation, in order to meet the objections urged against it, was referred to a separate Committee presided over by *Rajasabhabhushana Diwan Bahadur K. R. Srinivasa Iyengar*, and action has already been taken to amend the Regulation on the lines proposed by that Committee.

16. The problems arising from agricultural depression in the malnad parts of the State were enquired into and reported upon by a Committee appointed by Government and the Committee suggest that that report may be treated as supplementing their present proposals. Orders on most of the recommendations contained in that report have been issued already.

No. R. 2652-723—L. R. 208-34-4, DATED 30TH OCTOBER 1935.

17. The Central Co-operative Land Mortgage Bank has at present been granting loans up to 50 per cent of the value of the properties hypothecated. The Committee consider that, in view of the fall in land values due to depression, a margin of 50 per cent is unduly restrictive, and propose that, having regard to the possible increase in the value of lands, the limit up to which loans may be sanctioned may be raised to 70 per cent of the present market value. Government accept this recommendation of the Committee. Separate action will be taken to amend the Bye-laws of the Land Mortgage Bank.

18. The Committee consider that, as pointed out by the Royal Commission on Agriculture and various other authorities, the greatest hope for the salvation of the rural masses from their crushing burden of debt lies in the growth and spread of a healthy and well-organised co-operative movement, based upon the careful education and systematic training of the villagers. They suggest that strenuous efforts should be made to increase the number of co-operative societies and improve their working, and that these societies should, in addition to providing the credit necessary, educate the raiyats and promote in them the qualities of thrift and prudence. Government are in general agreement with the views of the Committee in regard to the part that co-operative societies may play in improving the economic condition of the raiyats.

19. The Committee have concluded their report by making some general suggestions relating to permanent measures of rural improvement. Some of them are briefly referred to below :—

(1) *Improvement of agriculture.*—The Director of Agriculture has appended a Note to the report, indicating the lines on which the efficiency of agriculture may be improved and the raiyats enabled to realise the maximum amount for their labour. Improvement in irrigation facilities, growing of better-yielding varieties of crops, use of more efficient implements and better manure, conservancy and utilization of farm manure on a larger scale and improvement in the business of farming itself so as to reduce the cost of cultivation and increase the volume of the output are among the most important measures recommended for adoption. These questions fall mostly within the normal functions of the Department of Agriculture and Government desire that the department should spare no pains to show substantial progress under these heads.

(2) *Irrigation facilities.*—The Committee consider that the efficiency of agriculture could be greatly improved by providing irrigation facilities which will make agriculture less dependent on the vagaries of nature. They recommend that as many tanks as possible should be restored at a very early date and that steps should be taken to popularise the scheme of irrigation wells. Wherever they are likely to be successful, suitable advances should be given to the raiyats for constructing such wells. The Chief Engineer, who was consulted in the matter, considers it desirable to have a number of inexpensive wells sunk in the *atchkat* of selected tanks by making use of reinforced cement steining rings at a cost of about Rs. 200 per well. He is preparing a type plan for such a well and proposes to have the plan and estimate printed and circulated widely for information through the revenue authorities. Government have also passed orders recently directing the deputation of an Engineering Officer to investigate the possibility of encouraging the construction or improvement of irrigation wells in one of the affected tracts of the Kolar District, and they will be glad to provide all possible facilities for the construction of such wells. As regards a systematic programme of tank restoration works, the Chief Engineer considers that, so far as major irrigation works are concerned, there is no particular need at present to formulate any special programme as the present commitments are as heavy as Rs. 60 lakhs and it will take six years to complete the works on hand. As regards minor tank restoration, he has asked for a grant of Rs. 5 lakhs for the current year based on a fifty-year programme. Separate orders will be passed on the proposal in due course.

(3) *Subsidiary occupations for the raiyats.*—The Committee are of opinion that greater effort should be made to develop subsidiary rural industries in

No. R. 2652-723—L. R. 208-34-4, DATED 30TH OCTOBER 1935.

order to provide some profitable occupation to the raiyats during their spare time so that the income derived may supplement their resources and help them to improve their economic position. This question is engaging the attention of the Department of Industries and the Board of Industries and Commerce. Separate orders will be issued on receipt of definite proposals from the Director of Industries and Commerce on the subject.

20. The other recommendations which have not been dealt with in this order are under consideration, and orders on them will be issued in due course. Government wish to place on record their appreciation of the comprehensive and thorough manner in which the Committee have, under the guidance of the Chairman, Mr. N. Madhava Rau, dealt with the questions referred to them, and the lucid and practical manner in which they have formulated their proposals, and they direct that their thanks be communicated to the Chairman and the members of the Committee.

A. V. RAMANATHAN,
Chief Secretary to Government.

To—The Revenue Commissioner in Mysore.
The other Heads of Departments.
The Secretaries to Government.
The Deputy Commissioners of Districts.
The members of the Committee.

PRESS TABLE.

Exd.—G. K.

No. R. 2652-723—L. R. 208-34-4, DATED 30TH OCTOBER 1935.

ANNEXURE I.

Interim recommendations of the Committee and orders of Government thereon.

Recommendations	Orders of Government
<p><i>I. Grant of Takavi Loans.—</i></p> <p>(i) Deputy Commissioners should be instructed to grant takavi loans liberally under the rules to all agriculturists (including Shikmidars, Mulgenidars, etc.) who have transferable and saleable interests in land ;</p> <p>(ii) In the case of those agriculturists (e.g., tenants) who may not have any saleable interest in land, such loans may be granted with the consent of the owner of the land, if he offers the land as collateral security ;</p> <p>(iii) Instructions should be issued to the local officers to dispose of applications for loans promptly, within two or three months ;</p> <p>(iv) The rate of interest may be reduced to four per cent for a period of two years ; and</p> <p>(v) Government may increase the budget provision for the grant of loans to the extent necessary, the allotment being immediately raised by one lakh of rupees.</p> <p><i>II. Liberal Instalments and Publication of Rules.—</i></p> <p>(i) In granting loans for permanent improvements involving heavy outlay, sanctioning officers should be required to fix the number of instalments in a liberal manner so that the income from land may leave enough for the current demands of cultivation and the raiyat's personal requirements ; and</p> <p>(ii) wide publicity should be given to the Takavi and Land Improvement Loan Rules so that the agriculturists in the remote villages may avail themselves of the facilities offered by Government.</p> <p><i>III. Recovery of Loan Dues.—</i></p> <p>(1) Deputy Commissioners of Districts may be authorised to suspend the re-payment of instalments of Land Improvement and Takavi Loans due during 1934-35 and in special cases, suspend the re-payment of one instalment in arrear, if such re-payment was found to be unduly burdensome ;</p> <p>(2) Such relief should be given only on the application of the party ;</p> <p>(3) When the payment of one or two instalments is thus postponed, all the remaining instalments due on the loan should be postponed for one or two instalment periods and no additional interest need be charged by reason of the suspension ; and</p> <p>(4) The power of granting suspensions may be vested with Amildars so that the benefit of the concessions might be more easily availed of by the raiyats.</p>	<p>The proposals were sanctioned in G. O. No. R. 34-43—L. R. 221-33, dated 17th October 1934, for one year. The grant in each individual case was ordered to be limited to Rs. 100. The allotment for the year was increased from Rs. 80,000 to one lakh of rupees.</p> <p>This provision was further increased to Rs. 1½ lakhs in G. O. No. R. 3935-36—R. M. 36-34-4, dated 12th February 1935.</p> <p>Government accept both the recommendations. The Revenue Commissioner is requested to issue necessary circular instructions to the subordinate Revenue Officers.</p> <p>The proposals were approved in G. O. No. R. 2532-42—L. R. 221-33-36, dated 27th November 1934, with the modification that the recovery of interest need not be waived as it is likely to tempt people who can afford to pay to withhold payment. The Committee have urged a reconsideration of the order regarding the waiving of interest on suspended instalments. But Government regret their inability to accept this recommendation. Individual cases of hardship will, however, be considered on their merits.</p>

No. R. 2652-723—L. R. 208-34-4, DATED 30TH OCTOBER 1935.

Recommendations	Orders of Government
<p><i>IV. Decrees of Co-operative Societies against debtors who are Agriculturists.—</i></p> <p>(i) In the case of decrees which have been obtained in respect of fresh loans granted recently, further time of five or six months till the next harvest season may ordinarily be granted. If in any case such extension will be detrimental to the recovery of the amount, the Society concerned may make a special application to the Assistant Registrar for immediate steps being taken ;</p> <p>(ii) While no postponement of execution need be given in the case of decrees which relate to very old loans in respect of which there has been continued default by the members, even in these cases, if all interest up-to-date and a small portion of the principal, say 12½ per cent, is paid, Revenue authorities may suspend execution and return the cases to the Assistant Registrars for further instructions. The Assistant Registrars may advise in all deserving cases the grant of fresh loans by the Societies ; and</p> <p>(iii) In regard to the suits filed during the year 1934-35, the Assistant Registrars may be instructed to grant time till the next harvest season for payment of all interest up-to-date and a portion towards the principal, failing which, the decrees may be sent for execution.</p>	<p>These proposals were sanctioned in G. O. No. 2670-740—C. S. 18-34-2, dated 10th October 1934.</p>

ANNEXURE II.

Recommendations contained in the Committee's report on which orders have been passed already.

Recommendations	Orders of Government
<p><i>I. Remission under Breached Tanks.—</i></p> <p>If the occupant of a land under a breached tank raises only dry crops and the prospect of the tank being repaired is remote, dry assessment may be levied in lieu of half the wet assessment leviable under the existing rules as contained in Paragraph 234 of the Mysore Revenue Manual, Vol. I.</p> <p><i>II. Reduction of Record of Rights Fees.—</i></p> <p>(a) The scale of Record of Rights fees which was recently reduced to Re. 1-8-0 per <i>hissa</i> may be further reduced to Re. 1-4-0.</p> <p>(b) The Record of Rights Scheme may not be extended during the period of depression to taluks where the recovery of the fees might entail a serious addition to the existing revenue burdens.</p>	<p>The following addition to the existing rule was ordered in G. O. No. R. 4304-15—L. R. 254-34-2, dated 5th March 1935 :—</p> <p>In cases where the tank is, for all practical purposes, abandoned for an indefinite period and no wet crops have been raised under it for three successive years, a temporary assessment at the maximum dry rates prevailing in the village, may be levied as <i>Bengar kanda-yani</i>, with the sanction of the Revenue Commissioner, the balance of wet assessment being shown as a remission.</p> <p>The fees were reduced to Re. 1-4-0 per <i>hissa</i> in G. O. No. 3852-4—L. S. 19-34-7, dated 12th February 1934.</p> <p>This suggestion will be kept in view when the question of introducing the scheme into new taluks comes up for consideration</p>

Duplicate

REPORT

.. OF THE

AGRICULTURISTS' RELIEF COMMITTEE

IN MYSORE



BANGALORE :

PRINTED BY THE SUPERINTENDENT AT THE GOVERNMENT PRESS

1935

X 9(J):6:(224).N356
35

REPORT OF THE AGRICULTURISTS' RELIEF COMMITTEE.

I. PRELIMINARY.

This Committee was constituted by Government Order No. R. 302-73—L. R. 221-33, dated 20th July 1934, in which the scope of the enquiry and the terms of reference are stated as follows:—

Terms of Reference.

"The fall in price of agricultural products in the State since the year 1931 has affected the prosperity of the raiyat population and although the effect of the fall has been to some extent counteracted by fairly good harvests, the situation has been one of considerable anxiety and Government have been closely watching it."

* * * * *

"At the recent session of the Legislative Council, several non-official members urged that the revenue concessions sanctioned by Government were inadequate and that the extension of the Agriculturists' Relief Regulation had reacted unfavourably on the credit of the agricultural classes and the suggestion was made that a Committee might be appointed to advise Government as to further measures of relief to the raiyats in the present period of depression." Accordingly, the Committee has been constituted with instructions "to make a rapid enquiry into the extent to which the fall in the price of agricultural produce in recent years has affected the resources, debt obligations and credit facilities of the land-owning and cultivating classes in different parts of the State, and to report upon the nature and extent of the assistance that may be given to relieve them from the difficulties caused by the present depression, after an examination of the several measures suggested in this behalf and having in view the present financial condition of the State."

2. The Committee consisted of the following members:—

1. MR. N. MADHAVA RAU, B.A., B.L.,
Revenue Commissioner in Mysore (Chairman).
2. MR. K. V. ANANTARAMAN, B.A.,
Offg. Inspector-General of Police.
3. MR. A. K. YEGNANARAYANA IYER, M.A.,
Director of Agriculture.
4. MR. T. G. RAMA IYER, B.A.,
Deputy Commissioner, Kolar.
5. MR. M. G. MEHKRI, B.A., LL.B.,
Registrar of Co-operative Societies.
6. MR. T. V. A. ISVARAN, B.A.,
Deputy Commissioner, Shimoga.
7. *Rajasabhabhushana* MR. K. R. SRINIVASIENGAR, M.A.,
Retired Member of Council.
8. MR. B. K. GARUDACHAR,
President, City Municipal Council, Bangalore.
9. MR. J. MAHOMED IMAM, B.A., B.L.,
Member, Legislative Council, Jagalur.
10. MR. K. CHENGALARAYA REDDY, B.A., B.L.,
Member, Legislative Council, Bowringpet.
11. MR. B. S. PUTTASWAMY, B.A., B.L.,
Member, Legislative Council, Mysore.
12. MR. HOSAKOPPA KRISHNA RAO,
Member, Representative Assembly, Hosakoppa, Kadur District.

Personnel
of the
Committee.

MR. S. K. VENKATARAMANA AIYAR, B.A., B.L., Acting Assistant Commissioner, was appointed Secretary to the Committee.

Procedure
of the
Committee.

3. The Committee held 11 meetings on the dates given below :—

2nd August 1934
3rd September 1934
4th September 1934
18th September 1934
10th October 1934
9th November 1934
10th November 1934
29th November 1934
15th December 1934
16th December 1934
29th December 1934

At a preliminary meeting held on 2nd August 1934, the Committee decided that the necessary statistics and information relevant to the points for consideration might be compiled from the available official records, supplemented if necessary, by special reports to be obtained from the Deputy Commissioners of Districts. At a later stage, in response to the desire of some of the members, a detailed questionnaire (*vide* Appendix) was framed and sent to the Deputy Commissioners and they were requested to furnish notes on the points referred to therein after consulting any large landholders, traders and money-lenders in the district who could speak from personal experience about the matters under consideration. The Deputy Commissioners have accordingly favoured us with their opinions and have also sent the replies received from the officers and non-official gentlemen whom they consulted in regard to the questionnaire. The Chairman and some of the members had opportunities of meeting, during their tours, representative landholders in the localities which they visited, and informally ascertaining their views as to the extent of the depression and the measures of relief that could be usefully adopted.

We have also had the advantage of perusing some of the recent literature dealing with the agricultural situation in other parts of India, including the measures of legislation adopted or contemplated therein for relieving indebtedness.

Malnad
Depression
Enquiry
Committee.

4. The problems arising from agricultural depression in the Malnad parts of the State, which comprise one-fifth of the area and contain one-ninth of the population of the State, have been separately enquired into by a Committee appointed by Government in their Order No. R. 5663-68—L. R. 373-30-21, dated 14th April 1931, and presided over by the then Revenue Commissioner, *Rajamantrapravina* Mr. S. P. Rajagopalachari. The report is already before Government. We suggest that it be published and that the recommendations made therein be treated as supplementing our own proposals.

5. Two deputations, one consisting of Messrs. B. K. Rama Bhatta of Koppa and K. T. Satyanarayana Setty of Birur on behalf of the Malnad Commercial and Banking Corporation, Ltd., and another consisting of Messrs. G. W. Mayow, Yellappa Ajile and C. S. Subbanna Naik of Koppa on behalf of the Koppa Coffee Planters, met the Committee on the 10th and 29th November 1934 respectively. The former asked for a recommendation being made to Government for grant of financial assistance to the Corporation which had been brought into existence for the creation of facilities for the marketing of Malnad products and the latter asked for reduction of assessment on coffee lands in the Koppa Taluk this year in view of the very poor crops, due to want of timely rains. The Committee informed the deputationists in both cases that their requests were outside the scope of the Committee.

A third deputation consisting of representatives of Yegati and Hirenallore Hoblis of Kadur Taluk met the Committee on the 15th December 1934 to represent the serious situation this year due to failure of rains.

Interim Recommendations.

6. Pending the formulation of detailed proposals on the several points referred to us, our Committee submitted interim recommendations to Government for the grant of relief to agriculturists in respect of certain urgent matters.

Special
Takavi Loans.

One of these recommendations related to the grant of takavi loans during the current year and was to the following effect :—

(i) That the Deputy Commissioners should be instructed to grant takavi loans liberally under the rules to all agriculturists (including Shikmidars, Mulgenidars, etc.) who have transferable and saleable interests in land.

(ii) That in the case of those agriculturists (e.g., tenants) who may not have any saleable interest in land, such loans may be granted with the consent of the owner of the land, if he offers the land as collateral security.

(iii) That instructions should be issued to the local officers to dispose of applications for loans promptly within two or three months.

(iv) That the rate of interest may be reduced to 4 per cent for a period of two years.

(v) That Government may be requested to increase the budget provision for the grant of loans to the extent necessary, the allotment being immediately raised by one lakh of rupees.

The Government in their Order No. R. 34-43—L. R. 221-33, dated 16th—17th October 1934, sanctioned the proposals for one year and limited the grant in each individual case to Rs. 100. The allotment for the year was also increased from Rs. 80,000 to one lakh of rupees.

The second recommendation related to relief on the following lines in the matter of enforcement of decrees of co-operative societies against agriculturist debtors:—

Postponement of Execution of Co-operative Society Decrees.

(i) No postponement of execution need be given in the case of decrees which relate to very old loans in respect of which there has been continued default by the members. Even in these cases, if all interest up to date and a small portion of the principal, say 12½ per cent, is paid, the Revenue authorities may suspend execution and return the cases to the Assistant Registrars for further instructions. The Assistant Registrars may advise in all deserving cases the grant of fresh loans by the societies.

(ii) In the case of decrees which have been obtained in respect of fresh loans granted recently, further time of five or six months till the next harvest season may ordinarily be granted. If, in any case, such extension will be detrimental to the recovery of the amount, the society concerned may make a special application to the Assistant Registrar for immediate steps being taken.

(iii) In regard to the suits filed during the current year, the Assistant Registrars may be instructed to grant time till the next harvest season for payment of all interest up to date and a portion towards the principal, failing which the decrees may be sent for execution.

These proposals were approved in Government Order No. D. 2680-740—C. S. 18-34-2, dated 6th—10th October 1934.

The third recommendation was for the continuance, till the end of December 1934, of the revenue and other concessions sanctioned by Government from time to time. This was accepted by Government in their Order No. R. 1387-97—L. R. 221-33-27, dated 18th September 1934.

II. STATISTICS OF POPULATION AND AGRICULTURE.

7. Before proceeding to examine the questions arising from the slump in prices, it may be useful to bring together, for purposes of reference, some essential statistics relating to agriculture in the State.

8. The population of the State has, during the past thirty years, increased by about 10 lakhs, i.e., from 5,539,399 in 1901 to 6,557,302 in 1931, i.e., by nearly 20 per cent. Of the total population, nearly 84·1 per cent live in rural areas, while the rest, viz., 15·9 per cent live in towns.

9. *Agricultural Population.*—The Census Report (1931) gives the following analysis of the population of the State depending upon agriculture and allied occupations:—

TABLE I.

	Earners (principal occupation) plus working dependants	Earners (subsidiary occupation)
Pasture and agriculture	2,276,700	89,354
(a) Cultivation	2,111,796	48,876
Non-cultivating proprietors taking rent in money or kind	48,114	6,282
Cultivating owners	1,416,676	15,499
Tenant cultivators	195,104	7,559
Agricultural labourers { Farm servants ...	451,708	19,087
Field labourers		
(b) Special crops such as coffee, etc.	48,742	8,378
(c) Forestry	5,397	1,503
(d) Stock raising	106,145	18,264
(e) Raising of small animals and insects like silk worms	2,780	10,884

10. *Registered Holdings*.—The registered landholders in the State number about a million and may be classified as follows according to the amount of assessment paid by them and the extent of land in their holding (*vide* Season and Crop Report for 1932-33):—

TABLE II.

A. Classification according to Extent of Land.

	Number	Extent (Acres)
1. Holdings not exceeding 1 acre	117,982	108,167
2. Holdings exceeding one acre and not exceeding 5 acres	468,619	1,816,648
3. Do 5 acres and not exceeding 10 acres	256,288	1,884,141
4. Do 10 do 50 acres	159,485	2,939,551
5. Holdings exceeding 50 acres	21,270	1,824,016

B. Classification according to Revenue Paid.

	Number	Extent (Rupees)
1. Holders paying an assessment of Rs. 5 and under	492,081	15,08,971
2. Do over Rs. 5 but less than Rs. 25	442,498	47,09,719
3. Do over Rs. 25 and less than Rs. 100	118,954	40,59,147
4. Do over Rs. 100	10,068	16,67,172

From the foregoing, it will be seen that nearly 83 per cent of the registered holders in the State own less than 10 acres each, and nearly 87 per cent of the holders pay kadayam of Rs. 25 or less. It may be noted that under our system of revenue registry, no account is taken of hissedars, shikmidars, etc., and it is probable that if information regarding the latter were forthcoming, the number of persons having small holdings and paying small amounts by way of kadayam would be found to be considerably larger than the above figures indicate.

11. *Area Occupied and under Crops*.—Between the years 1905-06 and 1929-30, the extent of occupied area rose from year to year from 72½ lakhs of acres in 1905-06 to 79 lakhs in 1921-22 and 81½ lakhs in 1929-30. Since then, there has been a fall every year and the figures stood at 79½ lakhs in 1932-33, showing a slight increase of 32,000 over the figures of 1921-22. Compared with the figures of 1905-06, the increase is only 7 lakhs or 10 per cent, while the total population during this period has increased by 20 per cent.

The cultivated area, however, shows a higher percentage of increase, *viz.*, 15. It stood at 5,773,717 acres in 1905-06 and reached the maximum of 67 lakhs in 1929-30. Since then, there has been a fall by nearly a lakh of acres at the end of 1932-33.

The main food crops grown in the State are paddy, ragi, horsegram, avare and jola and the main commercial crops are cotton, groundnut, sugarcane, coconut, areca and the plantation crops: coffee, tea and cardamom. Mulberry is also grown in parts of Kolar, Bangalore, Tumkur and Mysore Districts. The bulk of the commercial crops is exported to British India and elsewhere. In respect of one of the important food grains, *i.e.*, rice, the imports greatly exceed the exports, its production in the State being insufficient for local requirements.

The areas under the important crops during the years 1929-30 to 1933-34 are indicated below:—

TABLE III.

Acreage under Important Crops from 1929-30 to 1933-34.

Crop	1929-30	1930-31	1931-32	1932-33	1933-34
Ragi	2,258,854	2,278,682	2,260,250	2,311,445	2,282,796
Paddy	720,825	742,781	781,800	770,277	774,397
Horsegram	788,170	760,028	768,931	802,609	787,309
Coconut	142,278	146,490	147,509	162,683	162,982
Jola	759,700	708,078	688,775	666,448	656,810
Groundnut	323,798	313,919	270,936	288,686	264,096
Cotton	75,188	82,624	88,219	91,464	76,767
Coffee	112,876	96,647	99,974	102,718	101,920
Cardamom	...	...	...	20,208	20,886
Areca	48,519	52,150	55,420	47,199	46,608
Coriander	27,839	48,295	58,336	55,088	51,851
Chillies	64,954	66,808	75,821	77,469	74,060
Tobacco	28,692	22,727	24,806	24,768	24,498
Mulberry	37,497	37,991	33,010	31,407	29,864
Sugarcane	88,188	87,754	86,076	42,088	42,282

TABLE IV.

Exports and Imports of Agricultural Produce.

12. The following table gives the details of imports and exports of the principal agricultural products during the period of depression :—

Commodity	1929-30		1930-31		1931-32		1932-33	
	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
IMPORTS								
	Mds.	Rs.	Mds.	Rs.	Mds.	Rs.	Mds.	Rs.
Ragi	11,220	41,890	808	1,848	14,827	29,571	14,688	26,704
Rice (in husk)	22,730	87,692	41,445	1,85,003	10,677	26,412	94,295	60,738
Rice (not in husk)	1,483,085	1,06,04,121	1,110,897	83,69,764	1,206,868	58,04,980	1,839,636	61,63,862
Cotton (raw)	228,849	74,61,215	171,418	88,93,214	183,026	29,89,059	263,478	52,69,560
Cocconut	85,514	1,56,925	80,608	1,06,173	18,297	56,307	29,876*	1,19,604
Coffee	10,945	7,32,508	8,605	4,54,127	8,132	4,33,075	6,625	3,44,552
Groundnut	46,229	3,35,797	79,828	4,25,268	172,490	9,30,489	93,519	8,03,987
Silk (Raw—Indian)	280	1,78,849	378	1,85,765	447	2,31,147	...	...
Areca	82,805	86,89,451	65,881	19,30,502	53,794	16,76,753	64,882	27,01,104
Cardamom	72	14,983	106	9,679	24	2,112	88	10,580
Pepper	5,043	3,47,846	4,445	1,99,588	8,093	93,628	...	...
Jaggery	77,389	7,87,762	44,606	2,86,159	9,054	40,194	38,976	1,44,880
Tobacco	168,398	81,68,950	97,744	49,85,762	104,603	51,91,875	72,814	39,12,660
Gram and pulse	716,212	45,09,317	780,984	44,68,624	888,653	49,82,366	780,850	89,54,250
EXPORTS								
Ragi	222,741	7,98,983	199,567	4,41,516	168,365	2,65,290	182,488	3,31,767
Rice (in husk)	247,952	9,40,550	166,118	4,70,958	137,785	8,30,226	71,187	1,77,968
Rice (not in husk)	11,054	79,499	16,566	89,507	82,182	1,61,136	9,315	41,918
Cotton	125,436	43,43,003	98,835	22,58,846	78,878	16,4,228	81,121	18,22,420
Cocconut	150,285	6,72,549	199,447	6,72,824	250,676	8,02,453	218,394	8,73,576
Coffee	24,424	15,55,269	26,760	18,26,561	21,831	11,38,766	30,426	15,82,159
Groundnut	1,823,881	1,00,22,403	1,267,798	61,80,708	794,597	87,41,280	789,219	24,02,462
Silk (Raw—Indian)	6,742	42,67,958	4,793	23,12,924	4,592	22,28,029	...	...
Areca	129,947	55,78,965	146,583	45,63,948	174,468	55,18,814	142,269	59,75,298
Cardamom	11,844	21,04,591	10,195	10,32,771	9,892	8,48,050	12,176	14,61,120
Pepper	2,990	2,10,199	1,779	78,653	2,864	70,881	...	...
Jaggery	85,825	7,77,689	138,442	8,68,364	246,207	10,89,712	154,819	7,74,095
Tobacco	56,148	27,15,186	41,468	21,71,402	58,841	28,14,124	55,982	22,39,280
Gram and pulse	948,887	22,31,992	221,726	11,91,788	166,765	9,63,870	80,495	4,02,475

Cr

Statistics of Wages.

13. The fluctuations of wages of skilled and unskilled labour during the years 1920-21 to 1933-34 are indicated in the following statement:—

TABLE V.
Statement of Wages.

Years	Daily wages for skilled labour		Daily wages for unskilled labour		Cart hire per day	
	Rs. s. p.	Rs. s. p.	Rs. s. p.	Rs. s. p.	Rs. s. p.	Rs. s. p.
1920-21	0 8 0	to 2 8 0	0 4 0	to 1 0 0	1 0 0	to 5 0 0
1921-22	0 8 0	to 8 0 0	0 4 0	to 1 8 0		Do
1922-23		Do		Do		Do
1923-24		Do	0 4 0	to 1 0 0		Do
1924-25		Do	0 4 0	to 1 8 0		Do
1925-26	0 8 0	to 8 4 0	0 4 0	to 2 0 0		Do
1926-27	0 8 0	to 8 0 0		Do		Do
1927-28	0 8 0	to 8 8 0		Do		Do
1928-29	0 14 0	to 2 12 0	0 7 0	to 1 4 0	1 4 0	to 4 0 0
1929-30	1 0 0	to 8 0 0	0 8 0	to 1 8 0	1 8 0	to 5 0 0
1930-31	1 0 0	to 2 8 0	0 6 0	to 1 0 0	1 4 0	to 8 8 0
1931-32	0 8 0	to 4 0 0	0 8 0	to 1 8 0	1 0 0	to 5 0 0
1932-33		Do		Do		Do
1933-34	0 8 0	to 4 0 0	0 8 0	to 1 0 0	1 0 0	to 5 0 0

III. CAUSES OF DEPRESSION.

14. The causes of the universal fall of prices in recent years are thus summarised in the "World Economic Survey, 1932-33, League of Nations":—

"There is general agreement that the causes of the decline of prices are many and complex. Important and far-reaching changes in the geographical and technical structure of industry and trade; equally important social developments, such as a rising standard of living, together with lessened flexibility of adjustment; political difficulties arising from reparation and war debt payments and tariff wars; monetary arrangements connected with the post-war currency stabilisations and the working of the new gold standard after it has been restored, international capital movements, security speculation and exchange difficulties—all entered into the back ground of the price fall. The exact degree to which these various factors entered into the combination of causes which precipitated the depression has been a subject of lively controversy."

It would clearly be beyond us, even if it did not fall outside the scope of our task, to try to elucidate a subject of such complexity. We may, however, note that, apart from world causes, whatever they might be, there are no factors that we can see of a purely local character that could have contributed to or aggravated the fall in prices. But more than the causes, we are concerned with the fact of the depression itself, which has been a hard and persistent reality for over four years and with its effects on our agricultural population which, for the most part, are readily discernible.

IV. MOVEMENT OF PRICES.

15. Regarding the prices of the principal agricultural products in Mysore, we have received information from several sources, and some of the members of our Committee have made special enquiries for the purpose in important trade centres. The information thus collected is interesting. But for our immediate purpose, *viz.*, that of illustrating the movement of prices over a long period, we have found it more convenient to confine our attention to the price statistics of Bangalore City. Other trade centres may be more important in respect of particular commodities, *e.g.*, cotton, areca, coffee, etc., but the price fluctuations therein are necessarily reflected in the quotations of Bangalore City also, the local variations, if any, being due generally to constant factors, such as, the cost of transport. Further, an authoritative and continuous record is available for Bangalore in the market reports published by the Chamber of Commerce. The accompanying statement showing the wholesale prices for the period 1914-1934 has been prepared on the basis of these market reports.

TABLE VI.

Statement of Prices of Certain Commodities in the Months of June during the years 1914 to 1934.

Name of commodity	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934
Paddy (per cart-load of 640 seers).	86 0	86 0	86-42	84-40	42-48	68-80	60-75	60-65	68-70	48-50	64-65	61-66	55-61	60-64	55-56	48-45	86-41	28-26	24-28	25-26	22-26
Rice (per patta) ...	15 8	16 0	14-19	14-20	16-25	27-32	23-35	18-29	22-28	17-24	21-28	22-26	20	20-26	19-25	19-25	14-21	10-15	11-14	11-12	10-14
Ragi (per cart-load of 640 seers).	86 0	86 0	85-40	84-40	40-44	95-100	87-92	70-76	68-72	54-58	63-65	68-70	70-74	68-70	64-68	56-64	40-48	20-25	36-40	27-28	26-30
Cholam (per patta).	8 0	8 0	6-8	6-7	12-18	16-17	18-14	16	12-18	11	18	18	11	12-18	10-11	10	7-8	5-5	5-6	5-7	5-6
	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers
Horsegram seers per rupee).	14	14	13-14	12-18	9	6-7	6-6	5-5	5-6	9-9	6-6	8	9-10	5-5	7	9-10	12-12	14-14	18-18	7-7	18-18
	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
Cocconut (per 1,000).	44 0	39-40	43-44	40-50	50-60	70	70-75	55-60	70-71	72	88	80-85	60 0 0	55-80	60-65	53-58	40-45	28-35	46-56	40-41	28-32
Areanut (per maund of 25 lbs.)	9 8	9 8	7-14	9-14	8-11	10-14	9-18	8-12	13-15	13-14	18-20	15-16	17-18	14-16	18-15	18-16	10-12	9-10	12-14	11-12	8-10
Groundnut (for 210 seers).	8 0	8 0	9-10	9-10	9-10	23-30	24-25	18	28	8	20-21	28-24	22-23	22 0 0	19-19	18-19	14 8 0	18-14	9 8 0	6-7	6 for 100 seers.
Jaggery (per maund of 35 lbs.)	1 14	1 14	2 2 to 2 10	1 15 to 2 8	1 8 to 1 12	2 6 to 2 14	5 0 to 5 2	4 8 to 5 0	2 12 to 2 2	2 1 to 2 2	8 12 to 4 4	8 8 0 to 8 12 0	2 12 0 to 3 0 0	1 12 0 to 2 6 0	2 1 0 to 2 8 0	3 6 0 to 4 4 0	1 14 0 to 2 8 0	1 0 0 to 1 4 0	1 4 0 to 1 10 0	...	1 4 0 to 2 0 0
Cardamom per 25 lbs.	...	...	...	24-28	20-22	18-24	35-40	20-25	40-50	70-75	95-100	120	60-65	40-45	85-90	70-80	42-52	20-25	35-40	...	21-22
Silk cocoons ...	...	...	...	...	...	...	...	...	...	...	Rs. a. p.	0 9 8	0 9 8	0 9 8	0 8 8	0 7 6	0 4 7	0 5 0	0 4 10	0 8 0	...
Coffee, Peaberry ...	...	...	14-15	12-18	12-14	20-22	21	15	25	20-22	23-24	23-24	28-29	25-29	108-105	118-115	65-68	82-84	96-98	...	85-88
Do Parchment...	...	...	10-11	9-9	9-11	15-16	15 8 0	12	24	14-14	18-20	16-17	28-24	19-24	87-91	96-99	76-81	72-74	78-76	...	66-68
Do Native ...	...	...	9-10	7-8	8-9	13-14	12 8 0	8	16-18	...	...	...	...	...	20-22 & 17-19 per 25 lbs.	22-19	14-15-12-12	14-14-9-10	69-70-55-58	...	40-42
Cotton, small cuppas per maund.	...	...	...	...	...	...	...	...	...	...	5 15 8	4 8 6	8 4 6	8 5 8	8 15 9	8 7 6	2 2 6	1 14 0	1 18 6	1 11 8	1 12 6
Do big cuppas per maund.	...	...	...	...	...	...	...	...	...	...	6 2 6	4 9 0	8 5 0	8 7 6	4 7 0	8 7 8	2 6 9	1 14 6	2 0 0	1 11 0	1 12 0
Javary cotton per candy of 500 lbs.	...	...	...	...	...	...	...	...	...	...	885 0 0	286 0 0	196 0 0	201 12 0	288 5 8	202 2 6	185 0 0	120 11 0	106 7 0	108 8 0	112 5 0
Double roller cotton for 500 lbs.	...	...	...	...	...	...	...	...	...	...	400 8 0	275 0 0	196 5 0	181 4 0	287 1 0	211 0 0	144 11 0	108 5 0	129 0 0	101 8 0	106 6 0

Between the years 1914 and 1920, there was a gradual rise of prices from year to year and the pinnacle was reached in the year 1919-20 following the cessation of the Great War. Subsequent to 1920, the prices began to fall until 1923 when they rose again and kept steady until 1928. They commenced declining once again after 1929. The fall continued from year to year until 1932, when it was arrested and the prices showed a tendency to rise. This rise was, however, very temporary and the prices began to decline once again until they reached their lowest level in June 1934.

Extent of
Fall.

A comparison of the prices in June 1934 with those that prevailed in 1929 will show that the prices of all the commodities had not fallen in the same proportion. Ragi, groundnut, mulberry and jaggery suffered most, the prices having come down to nearly a third of the 1929 level. But speaking generally, it may be stated that in the aggregate, the prices of agricultural commodities had fallen by nearly 50 per cent during these four years and that the gross money value realised by the agriculturist must have decreased to that extent.

16. Soon after the Committee commenced its work (about August 1934), a marked increase of prices occurred in the case of some of the staple products, like rice, ragi, jaggery, etc. This was probably due to the apprehended shortage of crop owing to the failure of rains and other causes. But this rise in prices came too late in the year to bring any relief to the majority of the agriculturists who had already parted with their stock of surplus grain. Further, being the result of popular scare and of the speculative activities which follow in its wake, it proved to be shortlived and the recent rains have brought down the prices again to some extent. But even at their present level, the prices of food grains, particularly ragi, are distinctly better than they have been in recent years, though their continuance cannot be counted upon. In the case of commercial crops, such as areca, cotton, etc., there has been no improvement even for a brief period.

The changes of price since June 1934 are shown in the following table :—

TABLE VII.
Change in Price of Certain Commodities since June 1934.

Commodity	June 1934	July 1934	August 1934	September 1934	October 1934	November 1934
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1. Paddy (640 seers) ...	22-26	22-26	22-30	32-36	38-42	35-40
2. Ragi (640 seers) ...	22-24	26-30	28-30	33-38	46-50	42-45
3. Ohlam (100 seers) ...	5 12 0 to 6 8 0	5 12 0 to 6 8 0	5 8 0 to 6 8 0	6 8 0 to 7 0 0	8 8 0 to 9 0 0	9 0 0
4. Horsegram (per rupee)	18½ to 14 seers	18 to 18½ seers	18 to 18½ seers	11 seers	10 seers	11½ to 12½ seers.
5. Coconut (per 1,000)	28-32	28-32	30 to 36	30 to 36	27 8 0 to 35 0 0	30 to 35
6. Groundnut (per md. of 45 seers)	0 10 0 to 0 11 0	10 annas to 12 annas.	0 15 0	0 15 0	1 0 0	1 0 0
7. Jaggery (per 28 lbs.)	1 4 0 to 1 14 0	1 4 0 to 1 14 0	1 12 0 to 2 8 0	2 6 0 to 2 14 0	2 4 0 to 2 5 0	2 0 0 to 2 8 0
8. Copra (per 24 lbs.) ...	8 12 0 to 4 0 0	8 8 0 to 4 0 0	8 8 0 to 4 0 0	8 0 0 to 8 4 0	8 2 0 to 8 4 0	8 0 0 to 8 4 0
9. Areca (per 25 lbs.) ...	8 8 0 to 10 0 0	8 8 0 to 10 0 0	8 8 0 to 10 0 0	8 8 0 to 9 8 0	7 8 0 to 8 4 0	7 8 0 to 8 4 0
10. Cardamom (per 25 lbs.)	21-22	20-21	25-30	25-30	25-30	25-30
11. Coffee, per cwt.						
Peaberry ...	82-85	85-88	85-88	85-88	86-88	86-88
Parchment ...	66-68	66-68	66-68	66-68	62-65	62-65
Native Flat ...	40-42	40-42	40-42	40-42	40-42	40-42

V. EFFECTS OF THE DEPRESSION.

17. In considering the effects of the agricultural depression, severe as they are, we must not fail to note that the situation is not without some satisfactory features. In the first place, as the figures in Table III will show, there has been no shrinkage in the area under cultivation. On the other hand, the acreage under all the principal food crops (except jola) shows a material increase.

Secondly, during the whole of the period of depression (with the exception of the current year), the rainfall and seasonal conditions have been generally favourable and the outturn of crops, particularly of the food crops, has been better than the average.

Thirdly, there has been no lack of employment for agricultural labour.

Fourthly, the statistics of railborne exports and imports show that, taken as a whole, the external trade of the State had not suffered seriously in volume, although, of course, it is reduced in value.

But for these favourable factors, the situation would have been one of extreme gravity. And even as it was, the agricultural classes found themselves in serious difficulty. During the period of high prices following the conclusion of the war, their standards of living had risen and entailed a larger expenditure for the purchase of articles and services required to meet their increasing wants. At the same time, their debt had also increased as the appreciation of land values had tempted and enabled them to borrow more largely. The reduction of the money income by about one half which was the direct result of the slump, made it impossible for many of them to live in the style to which they had got accustomed and at the same time to meet their extended obligations.

18. It cannot, however, be said that all classes of raiyats are equally affected by the fall in prices. Field labourers who constitute about a fifth of the agricultural population are little worse off than before. Their wages in grain remain unchanged. Money wages too kept steady during the earlier years of depression and if they since declined, the fall has been less in proportion than the fall in prices so that the "real wages" of agricultural labour have scarcely suffered.

Effect on
Several
Classes.

The tenant cultivators have no obligation to pay taxes. Their rents are generally paid in kind and even where money rents are in vogue, they are, except in the Malnad, generally in a position to dictate their own terms to their landlords.

The peasant proprietors form the bulk of the agricultural population. They generally grow all the grain required for their household requirements and such small amounts as they require for payment of services, taxes, etc., are obtained by selling non-food crops or from the profits of subsidiary occupations. There are a variety of such occupations available in the vicinity of towns and cities, (e.g., selling milk, curds and vegetables, hiring of carts, etc.) which still form an important source of income to the suburban raiyat. But the peasant owners in the interior parts have no such advantages. The cultivation of non-food crops, the rearing of cattle, goats, sheep and silkworms and such like occupations on which they depended have ceased to be remunerative. Besides, it is believed that this class of agriculturist is more heavily in debt than either the tenant cultivator or the labourer who enjoys comparatively little credit.

The classes which are most hard hit by the depression are the landholders who do not cultivate their lands at all or cultivate only a small portion of their holdings. The lands are leased to tenants and a certain proportion of the lands generally lies fallow. Except in the Malnad, the financing of cultivation, including the payment of all fixed charges, falls upon them, and their debt is of serious proportions.

19. The fall in prices has not affected the growers of all the crops to the same extent. The cultivators of some of the crops have particularly suffered, while the hardship in the case of others is not relatively so great. An attempt was made to evaluate the income, extent and net profits per acre in respect of each crop, but the information that we obtained was so discrepant that we were unable to base any definite conclusions on it. We are, however, satisfied that in the cultivation of some of the crops like ragi, jola, cotton and groundnut, the margin of net profit left to the cultivator is comparatively low. Groundnut cultivation, particularly, has had considerable vicissitudes owing to the abnormal fall in the value of the crop to nearly a third of its original price, so much so that it seemed almost unprofitable to continue the cultivation of this crop.

Effect with
reference to
Crops.

Value of Land.

20. The registration statistics show that the amount of sale and mortgage transaction rose from Rs. 192 lakhs and Rs. 193 lakhs in 1920-21 to 238 lakhs and 224 lakhs respectively in 1929-30, when the prices of the agricultural commodities had reached a high level. Since then, on account of the fall in the return from land consequent on the abnormal fall in the prices, there has been reluctance on the part of the people to invest their money in land and a preference to make better profit by money lending or other means, such as investment in Government Securities, etc. This tendency is reflected in the reduced value of registered sales and mortgages, which stood at Rs. 1,67,45,200 and Rs. 1,57,85,625 respectively per year, on the average, during the period of depression.

Such information as we could obtain shows that the fall in land values varies from 25 to 75 per cent in different parts of the State. Speaking generally, we are inclined to think that 50 per cent may be taken as the average decline in the value of land.

TABLE VIII.

Statement showing the Number and Value of Transactions in the Mysore State by Sale and Mortgages during the Years 1920-21 to 1933-34.

Year	Sales		Mortgage	
	No.	Amount	No.	Amount
		Rs.		Rs.
1920-21	62,912	1,92,55,649	64,164	1,98,27,888
1921-22	64,227	1,98,97,558	65,736	1,96,46,172
1922-23	59,466	1,92,51,066	61,250	1,81,50,276
1923-24	55,787	1,62,67,568	61,919	1,75,37,808
1924-25	58,988	2,08,67,541	69,808	1,96,91,893
1925-26	69,801	1,99,50,244	78,079	1,90,58,088
1926-27	69,726	2,14,22,225	70,663	1,91,01,812
1927-28	76,298	2,27,30,717	74,949	2,09,61,972
1928-29	79,569	2,48,38,824	78,956	2,16,76,428
1929-30	74,948	2,38,36,547	74,209	2,24,62,296
1930-31	57,746	1,69,32,980	57,034	1,69,11,840
1931-32	58,092	1,64,76,840	52,605	1,69,61,764
1932-33	66,602	1,78,99,078	64,817	1,65,16,278
1933-34	61,215	1,56,71,900	48,106	1,28,18,129

Agricultural Credit.

21. The agricultural depression has had marked effects on the credit of the cultivator and the relations between the money lender and the borrower. The inflation of prices after the war and the consequent appreciation of landed security enabled the agriculturists to command greater credit, and this was fully availed of by the bulk of them. The indebtedness increased owing to fresh borrowings on the top of the old debts, swelling the interest charges which the agriculturists had to pay from their income. Since the depression began, the payment of interest has ceased to be regular, and it is believed that the liability has, during the past four years, greatly increased. In these circumstances, it is natural that the money lenders should be chary of giving fresh loans on the security of lands which are declining in value. The value of registered mortgages, as stated already, has declined to an appreciable extent. It is understood that current mortgages do not, in many cases, represent fresh money lent, but are merely cover for previous unsecured debts. If there is one thing that has been unequivocally brought out in the information supplied to the Committee from various quarters, it is the contraction of agricultural credit at the present time and the tendency on the part of moneylenders to limit fresh business.

Co-operative societies have had perforce to adopt a similar policy in the issue of loans to their members. As the Registrar of Co-operative Societies has observed in his Report for the year 1932-33, "there was contraction in the grant of loans, by both the banks and societies, with the consequence that much surplus capital which would have been loaned out remained idle. Deposits could not be accepted, and the rate of interest on them was also reduced. Owing to the non-realisation of interest from members on the loans issued to them, the profits earned decreased, and consequently, the rates of dividend declared by many of the societies were less than in previous years."

VI. AGRICULTURAL INDEBTEDNESS.

22. Several investigations have been made in the past by the Co-operative Department and by individual investigators to ascertain the extent of agricultural indebtedness in different parts of the State. These investigations, so far as reliance can be placed upon them, show that even in villages where the burden of debt is comparatively light, 50 per cent of the agricultural population are indebted and the average debt per agriculturist is about Rs. 20. At the other end of the scale are found villages in which there is hardly a family without debt, which averages Rs. 100 per head or more.

Estimate of Debt.

According to the calculations made by the Banking Enquiry Committees of Bombay and Madras, the average debt of the agriculturist in these provinces is said to be Rs. 50 and Rs. 49 respectively. As the conditions in this State are not very different, we shall not perhaps be far wrong in assuming Rs. 50 as representing roughly the average debt of the agriculturist in Mysore. On this basis, it would appear that the agricultural debt in the State must have been in the neighbourhood of Rs. 25 crores before the depression set in. As a result of the depression, the interest charges have remained mostly unpaid so that the volume of the total debt at the present day, inclusive of the accrued interest, would not be less than Rs. 35 crores. This represents nearly 30 times the land revenue assessment of the agricultural lands.

In the replies received to our questionnaire, the opinion is generally expressed that the volume of debt of the landowners, large and small, has been very much on the increase and that in a fairly large number of cases, the debt is very nearly equal to, if not greater than, the value of the assets of the debtors and that in these cases the liquidation of the debt from the current income is out of the question.

23. As regards the effects of this huge volume of indebtedness on the economy of agriculture, we cannot do better than quote the following passages from the Report of the Indian Central Banking Enquiry Committee :—

Effects of Debt.

"The existence of a heavy burden of debt exercises a most detrimental influence on agricultural progress. An important source of credit is not only drained for unproductive purposes but the potential credit available for improvement is also correspondingly curtailed. In the case of usufructory mortgages particularly, the mortgagor too often declines to the position of a permanent tenant under the mortgagee, paying not a fair rent, but the utmost the lender can extract or extort."

"The cultivator is obliged by reason of his indebtedness to sell his produce to his creditor at an unfavourable season and at a price detrimental to himself. When money-lenders are also shopkeepers and commission agents, they often make it a condition that the agriculturists' produce must be sold through them. This very seriously affects the liberty of action in marketing the produce Even when the moneylender is not a trader and does not want to buy the produce, he knows that if the debtor does not pay after selling his produce, it will not be possible for the latter to pay till after the next harvest. He has, therefore, to put pressure on the debtor immediately after the harvest, and the effect of this pressure is so great that the borrower is compelled to dispose of his harvest as quickly as he can. As every grower is equally pressed for cash and has to sell at the same time, the price obtained by the cultivator is naturally depressed in consequence."

24. The situation is one of urgency and calls for measures of relief of an expeditious character. We have studied the action taken and the proposals made to meet the situation in the various parts of British India and Indian States and note that they generally proceed upon the following lines :—

Lines of Relief.

- (i) Controlling rates of interest on loans, sometimes with retrospective effect.
- (ii) Prevention of expropriation of agriculturists during the present period of depression ;
- (iii) Establishment of Debt Conciliation Boards, and
- (iv) Enactment of a simple rural insolvency law.

The measures coming under the first category will be dealt with in a later part of our report.

25. The action taken or contemplated under the second head comprises the enactment of special measures of agricultural relief having for their object the prevention of the sale of land unless it is specifically mortgaged, the empowering of courts to permit payment of debts in instalments instead of subjecting the properties precipitately to sale and allowing courts to go behind the transaction and reduce the interest in cases where this is found to be oppressive. Legislation on these lines was introduced in Mysore in 1928 by the enactment of the Agriculturists' Relief Regulation which applies to agriculturists whose yearly income from sources other than agriculture does not exceed Rs. 500 and the aggregate income from all sources does not exceed Rs 1,000. Under its provisions, immoveable property which is not specifically mortgaged for a debt is exempt from sale and in the case of all debts, secured as well as unsecured, courts can permit repayment in instalments extending normally up to eight years. This Regulation has now been extended throughout the State and the concessions afforded therein are available to all persons coming within the meaning of ' agriculturists ' as defined therein.

Agriculturists' Relief Regulation.

26. Among measures of a more drastic character which have been suggested under this head are the scaling down and re-assessment of debts with reference to the fall in the value of the agricultural commodities, the regulation of sales of land in execution of decrees against agricultural debtors so as to ensure that the creditors do not get more land now in satisfaction of their debts than they could have had but for the slump, and the postponement of the sale of the debtor's immoveable properties in execution of decrees until the situation improves. These measures, although they have been sometimes advocated, have not, so far as we are aware, been adopted in any Province. Obviously, they raise issues of a highly controversial character.

Other Measures.

27. The idea of establishing Conciliation Boards found expression in the recommendation of the Royal Commission on Agriculture that in areas where debt is known to be beyond the capacity of the people to pay, conciliation bodies might be tried. The Indian

Debt Conciliation—Action taken Elsewhere.

Banking Enquiry Committee was also of the opinion that the problem of indebtedness should be tackled by bringing about conciliation between the debtors and creditors with the object of securing a composition of the standing debt. With the increase in the volume of this debt caused by the slump, the need for some conciliation procedure is being widely recognised. A scheme of debt conciliation has been carried out in the Bhavanagar State by which a debt of nearly 86½ lakhs is said to have been compounded for 20½ lakhs and the whole debt has been paid off by the Government of that State. An Act has been passed for the conciliation of debts by the Legislature of the Central Provinces in the year 1933, and so far six Debt Conciliation Boards are said to have been established under the Act. Till the end of August 1934, these Boards settled debts amounting to Rs. 27·76 lakhs for Rs. 15·86 lakhs, reducing the debt by 41 per cent. The main feature of the scheme of the Central Provinces is the appointment by Government of Conciliation Boards to examine the entire transaction and adjudicate the amount to be repaid and determine the mode of repayment with reference to the nature of the loan, the relation between the parties, etc. The scheme provides that if creditors to whom not less than 40 per cent of the debts are due come to an amicable settlement with the debtor, such settlement shall be reduced to writing in the form of an agreement and shall take effect as a decree of Civil Court and that in cases of refusal by the creditor to agree to the settlement considered fair by the Board, a certificate shall be granted by the Board and that from the date of such certificate, the courts will not allow costs or interests on the debts in excess of 6 per cent.

Legislative action on more or less the same lines is understood to be under contemplation in some of the other British Indian Provinces also.

28. This question was considered by us at a number of meetings. We have also had the benefit of a discussion on the subject with Mr. M. L. Darling, I.C.S., Officer on Special Duty with the Government of India, who was good enough to be present at one of our meetings.

Recommendation.

We consider that a measure of debt conciliation might with advantage be tried in Mysore so that the standing debt may be brought down within the repaying capacity of the debtor. It is seen that a large number of raiyats' holdings have already been sold in satisfaction of debts and further losses are likely to ensue unless adequate action is taken. We are not unaware of the possible criticism that even if the entire debt is wiped out, a debt of as large a magnitude may reappear in a few years. Some of us consider that conciliation may shake the credit of the agriculturist and produce other undesirable effects. But the situation just at present is so extraordinary and the volume of debt which has accumulated is so great that such a measure appears to most of us to be unavoidable if the agriculturists as a class are to be enabled to preserve their lands.

Conciliation of debts is not new in this country and instances are not wanting in which even at the present day the debtor and creditors conjointly seek the aid of a panchayet to effect a composition of the debts, so that while the creditors forego a portion of what might be justly due to them something is left to the debtor wherewith he can live and make a fresh start in life. It is the weakening of this traditional spirit of give and take that makes resort to legislation necessary.

We understand that, in places where the scheme of conciliation has been tried, creditors have freely resorted to it and a large volume of debt has been compounded. The main reasons which have influenced the creditors in consenting to conciliation are the saving of the heavy cost on account of stamp fees and other court charges and the avoidance of the uncertainties and worries of litigation. Even secured creditors have, it would appear, been willing in many cases to come under the scheme provided their preferential position is safeguarded.

Conciliation Boards.

29. As regards the agency for conciliation, the Indian Central Banking Enquiry Committee recommended the appointment of special officers in each Province for bringing about conciliation by means of propaganda. The enactments which have either been passed or which are under contemplation in the British Indian Provinces provide for the establishment of Debt Conciliation Boards in each district or part of a district consisting of a chairman and two or more members appointed by the Local Government. For our own part, we consider, having regard to the conditions prevailing in Mysore, that it would be better to appoint *ad hoc* Boards for each case preferably from among the persons residing in the area to which the debtor or the creditors belong, so that they can bring to their aid their personal knowledge of the local conditions, the relationship between the parties and the nature of the transactions. The Board might be composed partly of nominees of the debtor and partly of those of the creditor with a chairman to be selected by the court.

30. The Central Provinces Act and the Bills under contemplation in the other British Indian Provinces provide for the proceedings in conciliation commencing with the application by a debtor or a creditor to the Conciliation Board; we consider that application should be filed before the Civil Court having jurisdiction in the area, which may, in the first instance,

ascertain whether the case is one fit for going before the Conciliation Board, and may refer only such cases to the Board for settlement.

31. We consider that the Debt Conciliation Boards should be guided by certain definite principles in arriving at the amounts for which debts should be compounded. We therefore suggest that the following aspects should be considered by the Boards in arriving at a decision :—

Principles of Conciliation

- (i) The amount of consideration actually received ;
- (ii) The reasonableness or otherwise of the rates of interest contracted for ;
- (iii) The amount of interest that has been allowed to accumulate ;
- (iv) Onerous conditions, if any, that have been coupled with the grant of loans ; and lastly,
- (v) The repaying capacity of the debtor.

While the secured as well as the unsecured debts will be reviewed on the above considerations, in the matter of realisation, however, the secured debts will have preference over unsecured ones. In cases in which the conciliated debt cannot be paid immediately, but is ordered to be paid in instalments, payment of reasonable interest on the compounded debt should be provided for, unless equated payments including interest are fixed.

32. We would accordingly recommend a scheme on the following lines :—

Details of Scheme.

A debtor or any of his creditors may apply to the Civil Court of competent jurisdiction to effect a settlement, provided that no application should be made if the total debts exceed a sum to be fixed with particular reference to the conditions of the agriculturists in Mysore. We would, for the present, limit the cases to go before the Board to those in which the total amount of debt does not exceed Rs. 10,000. Every application presented by the debtor should furnish complete particulars regarding his assets and liabilities together with a statement that he is unable to pay his debts ; while the application presented by the creditor should furnish information about the amounts and the particulars of his claims against the debtor. The court should, on receipt of this application, and after such enquiry as might be necessary, appoint a Conciliation Board consisting of not less than three or more than five members, of whom an equal number should be nominated by the debtor and the creditors respectively, the chairman being selected by the court. The Board should call upon the debtor and his creditors to explain their respective cases and endeavour to induce them to arrive at an amicable settlement and for that purpose, it should have the power to require the attendance of witnesses and the production of documents and to receive evidence. It might also submit a special case for the opinion of the court on any question of law involved. If all or any of the creditors come to an amicable settlement with the debtor, such settlement should be reduced to writing in the form of an agreement recording the amounts payable to the creditors and the manner in which and the times at which they are to be paid and the court shall pass a decree in terms of such agreement.

If a debtor defaults in paying any amount fixed under a decree, such amount should be recoverable, in the first instance, as arrears of land revenue on the application of the creditor made within 90 days of the date of default and if the Deputy Commissioner fails to recover any part of the amount as arrears of land revenue, the matter should be reported to the Civil Court and thereafter the amount shall be recoverable through the process of the court.

If, however, any creditor does not agree to an amicable settlement, the Board, may, if it is satisfied that the debtor has made such creditor a fair offer which the creditor ought reasonably to have accepted, grant the debtor a certificate in such form as may be prescribed in respect of the debts owed by him to such creditor provided that the creditors to whom not less than 40 per cent of the debts are owing have come to a settlement. In the event of a creditor filing a suit for the recovery of debts in respect of which a certificate shall have been granted, the court shall not allow the plaintiff any costs in such suit or any interest on the debt after the date of certification in excess of simple interest at 6 per cent per annum on the amount due on the date of such certificate and if the suit is in respect of an unsecured debt, the execution of the decree passed in the suit shall be postponed till all amounts due under the settlement are paid, or till the agreement has ceased to subsist.

33. The question whether conciliation should be voluntary or compulsory was discussed by us at some length. Some of the members considered that the principle of compulsory conciliation would affect the credit of the agriculturist and that therefore the scheme, if introduced, should be only on a voluntary basis, that is to say, it should be open to any party to accept or reject the offer of the Conciliation Board. While all of us are agreed about the desirability of introducing a scheme of voluntary conciliation on these lines, some of us are inclined to doubt whether this will by itself be sufficient. Although the parties may come to a voluntary settlement, there may be cases where the creditors will not agree to conciliation and the whole proceedings may prove futile. The Indian Central Banking Enquiry

Conciliation—
Voluntary or
Compulsory.

Committee have suggested that in cases in which the lender will not agree to a voluntary settlement of the debt, it will be necessary to take action to secure a compulsory settlement by means of legislative enactment. Such of us as hold this view would therefore suggest that while the scheme may generally be of a voluntary character, the possibility of having to introduce some measure of compulsion should not be overlooked. Provision may, therefore, be made in the Regulation to be enacted, whereby the Government may be enabled to extend the scheme on a compulsory basis in such areas in which they may consider such extension advisable or expedient. Under the compulsory scheme, whenever the parties do not come to a settlement, it should be open to the Board, after considering the case on its merits, to pass an award indicating the amounts payable to the creditors and the manner in which and the times at which the same should be paid and such award should be reported to the Civil Court concerned which would pass a decree accordingly.

**Payment of
Compounded
Debt.**

34. A scheme of conciliation to be successful should provide for some effective means of repayment of the compounded debt. The creditors could be induced to make considerable sacrifices if the compounded debts are paid down in cash or their repayment without any further effort on their part is assured to them. The methods of assistance generally provided by Government for this purpose are either direct or indirect:—(1) the Government may itself pay off the creditors or guarantee payment to them, or (2) the payment may be made by banking institutions financed and controlled by the State, or (3) Government may only undertake to recover the settled debt by instalments, as they fall due, as arrears of land revenue.

The first method of paying off the creditor in cash has been adopted in the Bhavnagar State. The Government of Cochin has recently sanctioned a scheme of advancing money to creditors for part of the debt due to them by the debtors and of assigning to them bonds guaranteed by the Government for the balance of the debt. Lands of sufficient value are to be hypothecated by the debtors for the loan, which is made repayable in 30 years along with interest at 6 per cent. The question of issuing bonds by Government for paying the debts is said to be under contemplation in one of the British Indian Provinces also.

The payment of the debt by the State in cash or bonds is the more simple and efficacious method, but practical considerations and the amount involved preclude any attempt at its adoption in our State.

**Co-operative
Societies and
Land
Mortgage
Banks**

The appropriate agencies in our view for paying off the liquidated debts, or at any rate, a portion thereof, are the Co-operative Societies or the Land Mortgage Banks, according to the length of the term over which the recovery has to be spread. It must, however, be recognised that whether repayment is made by the Government or any other agencies they can help only in cases where the debtor has adequate security to offer. The Land Mortgage Bank has at present been granting loans up to 50 per cent of the value of the properties to be hypothecated as security for the loans, and this margin has been adopted apparently in view of the fluctuations in the value of land and the risk on account of the possible deterioration of the properties. It is, no doubt, a wholesome practice and one which has stood the Bank in good stead in its transactions before the depression set in, but now that land values have gone down to very near the minimum, a margin of 50 per cent is, in our opinion, unduly restrictive. Having regard to the potential increase in the value of lands, we would propose that the limit up to which loans may be sanctioned may well be raised to 70 per cent of the present market value as the maximum.

35. The proposals made by us would necessitate the extension of the operations of the Land Mortgage Banks on a large scale, and even apart from the introduction of conciliation procedure, there is need for the rapid extension of Land Mortgage institutions throughout the State for the amortization of the agriculturists' debt, as also for providing the agriculturists with long term credit.

The Land Mortgage Bank in Mysore which was started for this purpose in November 1929 confined its business at the beginning to three taluks in the Malnad and one taluk in the Maidan. Its operations have gradually extended and at the end of last year covered fourteen taluks and two sub-taluks. The Government have recently sanctioned the extension of the scheme to four more Taluks. The authorised share capital of the Bank is Ra. 5,00,000. In addition, the Government have permitted the Bank to issue debentures up to Rs. 20 lakhs and have guaranteed the repayment of the interest as well as principal of the debenture loan. The President of the Bank and the Trustee are nominated by Government and the institution is subsidised by Government in respect of its working expenses. With the experience so far gained and the support which the Government have accorded to the scheme, its further development seems to be assured. It should not be many years before primary banks are established in all the taluks of the State. These banks will be of material assistance in bringing about the conciliation of debts as well as in arranging for their discharge.

36. The Co-operative Societies and Land Mortgage Banks can advance loans only to those debtors whose assets afford the margin of security required by these institutions.

In the case of persons who are unable to give such security, though so lent, the only relief that can be given is to allow them to pay in instalments spread over a fairly long period and to provide them with a certified statement of their debt obligations.

37. There would still remain a class of debtors whose conciliated debt being far in excess of their assets must be dealt with in a different manner. Such debtors should be afforded a chance of surrendering all their assets and being adjudged as insolvents so that they may earn their living, if they can, freed from the perpetual bondage of an impossible debt. We consider that in such cases the Conciliation Board should report the matter to the court concerned which may, in the absence of any valid objection or reasons to the contrary, deal with the reference as if it were an application under the Mysore Insolvency Regulation. For this purpose, it is not necessary to insist that the debts of the debtor should amount to Rs. 500 (*vide* Section 10 of the Insolvency Regulation of 1925); a lower limit would be enough. The courts may also be empowered to make an order under Section 74 of the Regulation for the administration of the debtor's estate in a summary manner although the value of the property may exceed, in value, five hundred rupees. We would suggest that this latter limit may be suitably increased.

Rural
Insolvency.

VII. AGRICULTURAL FINANCE.

38. The following are the main agencies which have been providing credit to the agriculturist :—

- (i) Government.
- (ii) Co-operative institutions.
- (iii) The private moneylenders and Joint Stock Banks.

39. The Government have been granting loans for agricultural purposes under the Land Improvement Loans Regulation and takavi loans under Section 194 of the Mysore Land Revenue Code. The former are granted for carrying out works which add to the letting value of the land and the latter for purposes which mostly come under what are known as short term credit, such as the purchase of seed grain, ploughing cattle, fodder, manure, construction of agricultural houses, purchase of agricultural implements, etc. During the years 1920-21 to 1933-34, a sum of Rs. 22½ lakhs has been advanced on account of Land Improvement Loans and Rs. 17½ lakhs as takavi loans. These loans bear a low rate of interest and in view of the depression, the rates of ordinary and penal interest have been further reduced from 6½ and 8 per cent to 5½ and 6½ per cent respectively for a period of one year from January 1934. Having regard to the present condition of the agriculturist and the difficulty felt by him for meeting his current needs for agricultural operations, we recommended to Government, as an emergent measure of relief, the grant of takavi loans on a liberal scale and the increase of the allotment for the current year by another lakh of rupees for the purpose. In regard to interest, we considered that the present rate was capable of further reduction and recommended that during the period of depression loans might carry interest at 4 per cent. Our recommendations have been, in the main, accepted by Government and the grant has also been increased during the current year to one lakh of rupees. We have no doubt that further grants will be available, if required.

Government
Loans.

The system of Government loans is serving a useful purpose and meeting a real need, though its benefits are unfortunately limited. The chief complaints in regard to the administration of these loans are that the funds provided for the purpose are not enough, that the system is not sufficiently well known to the people, that there is delay in the disposal of applications and that repayment of the instalments is enforced too rigorously.

40. There is doubtless some foundation for these complaints though they are apt to be exaggerated. Some delay is inevitable as the necessary enquiries preliminary to the grant of loans have to be carefully carried out and greater elasticity in the rules would increase the temptation to unwise borrowing while a scrutiny of the security offered, supervision to ensure that the loan is actually expended on the improvement for which it is granted and insistence on regular recoveries are all necessary in the interests of the borrowers themselves. We agree that unnecessary delay should be avoided and the applications should be disposed of promptly, say, within a period of three months, if relief is to reach the agriculturists in time.

Improvement
Suggested.

As regards the period of repayment of loans, the existing rules allow sufficient latitude, but it would appear that in practice the officers granting loans do not generally fix the period with reference to the income derivable from the improvements and the repaying capacity of the borrower. In the case, for instance, of loans for the construction and repair of wells, the maximum period of repayment is 30 years. But we gather that only in rare cases is a period exceeding ten years actually allowed. We consider that in granting loans for permanent improvements involving heavy outlay, the sanctioning officers should be required to

fix the number of instalments in a liberal manner so that the income from the land may not have to be utilised solely towards the repayment of the loan, but may leave enough for the current demands of cultivation and the raiyats' personal requirements.

Wide publicity should be given to the takavi and Land Improvement Loan Rules so that the agriculturists in the remote villages may avail themselves of the facilities offered by Government. The provision for advances should also be suitably increased to the extent necessary for meeting the demand consistently with the other commitments of Government.

Adequate allotments for sinking irrigation wells should be made and when loans are sanctioned for this purpose, the progress of the works should be scrutinised from time to time by responsible officers and the disbursements of the loan amounts made only against such progress.

In all these respects, what is required is not a change but an improvement in the present practice.

Co-operative Societies.

41. The Co-operative institutions should play a more important part in the financing of agriculture. The Report of the Co-operative Department for 1933 shows that these institutions as yet serve only a small portion of the agricultural population. The total number of agricultural societies at the end of the year 1933-34 was 1,629, with a membership of about 72,000. Of these, 1,534 were credit societies including Land Mortgage societies, and their working capital was about Rs. 53 lakhs. As pointed out by the Agricultural Commission and various other authorities, the greatest hope for the salvation of the rural masses from their crushing burden of debt lies in the growth and spread of a healthy and well organized co-operative movement based upon the careful education and systematic training of the villagers themselves. Apart from the question of debt, co-operative credit provides the only satisfactory means of financing agriculture on sound lines. Strenuous efforts have, therefore, to be made to increase the number of co-operative societies and improve their working. These should, in addition to providing the credit necessary, educate the raiyat and promote in him the qualities of thrift and prudence. The need for a careful scrutiny of the economic purpose of the loan and of the repaying capacity of the borrower cannot be over-estimated.

The Money-Lender.

42. The most important source of agricultural finance is the moneylender and in the present state, he is indispensable as he alone will be in a position to provide the bulk of the large capital required for current agricultural needs.

Loans are generally advanced either on personal security or on the security of immovable or moveable properties or on the security of the standing crops. Rates of interest on the loans vary according to the type of the moneylender, the nature of the loan, the nature of the security offered, and the status of the borrower. They vary from place to place and range mostly from 6 to 24 per cent, but in some cases they have been known to extend far beyond this limit up to 48 per cent. In the case of loans granted in kind repayable also in kind, the rates of interest may be as high as 100 per cent.

Of the different types of moneylenders, the village moneylender is said to be the least unfair in his dealings. Even when he stipulates for a high rate of interest, he is sometimes willing to forego a portion of it, in view of the changed circumstances of the borrower. But the generality of moneylenders, including Marwaris and Pathans, insist on the stipulated rates being paid. Onerous conditions are also often attached to the grant of loans providing for the levy of compound interest with rests at short intervals or for the payment of heavy penal rates on default. Having regard to the low profits from agriculture, the interest which the agriculturist can afford to pay out of his income would press very heavily on him, unless the rates are kept sufficiently low to admit of repayment either of principal or interest from the annual income with ease.

Usurious Loans Regulation.

43. The only enactments in Mysore intended to check usury are the Mysore Agriculturists' Relief Regulation and the Usurious Loans Regulation. Both of them provide for the courts scrutinising the transactions and disallowing interest which appears to them to be usurious. The following are the considerations that are generally taken into account in testing whether any transaction is or is not unfair :—

- (i) Risk taken by the creditor, including the presence or absence of security and the financial condition of the borrower.
- (ii) Various charges by the creditor in money or kind for expenses, enquiries, fines, etc.
- (iii) Compound interest, if any, charged.
- (iv) Other circumstances attending the loan.

It would appear that little use is being made of the Usurious Loans Regulation. Instances have been brought to our notice of the courts having awarded very heavy rates of

interest, notwithstanding the provisions of this Regulation, either because the attention of the courts was not invited to these provisions or the parties did not seek relief specifically under the Regulation. The main defects in the Usurious Loans Regulation are:—

- (i) That the debtor has to show that the rate of interest is excessive, and also to prove that the transaction was unfair before the court can take action;
- (ii) That even if the above position is proved, it is at the discretion of the court under Section 3 to exercise all or any of the powers mentioned therein; and
- (iii) That there is no definition of what constitutes excessive interest.

44. In some of the British Indian Provinces, legislative action has been taken to amend the Usurious Loans Act with a view to removing the above defects and prescribing the maximum rates of interest which the courts could allow. We have carefully examined this question and consider that it is desirable to amend our Regulation on similar lines. We recommend, therefore, that legislative provision may be made that in the case of agriculturists, simple interest above 10 per cent for secured debts and 15 per cent for unsecured debts should be deemed to be excessive, that compound interest at intervals of less than six months should be considered usurious, and that where compound interest is stipulated for, the reasonableness or otherwise of the rate should be tested with reference to the above limits of simple interest.

Maximum Rates of Interest Recommended.

45. The question whether retrospective effect should be given to the rates of interest proposed to be prescribed has also been considered by us. Among those who favoured us with their opinions, some have suggested that in view of the depression during the past few years and the abnormal fall in the price of agricultural produce and the lowering of the income of the agriculturist, the proposed legislation respecting rates of interest should be given retrospective effect in respect of transactions entered into since the year 1929-30. The majority of us are, however, of opinion that it is not expedient to upset contractual relationships and that, therefore, the new rates should apply only to interest accruing in future. Relief in other cases could be obtained to the extent possible under the Agriculturists' Relief Regulation and by a more effective use of the Usurious Loans Regulation.

46. In this connection, our attention has been drawn to the fact that Mahomedan debtors cannot claim the benefit of the rule of Damdupat under which the amount decreed as principal and interest is limited to a sum equal to twice the amount of the loan. We consider that the benefit of this rule should be extended to Mahomedan debtors also.

Damdapat.

47. It may be contended that any legislation to limit the rates of interest would affect the credit of the agriculturists and instead of improving their position render it worse. But so long as the rates prescribed are reasonable and yield a sufficient income for the investment and are substantially higher than the rates of public borrowing, we do not apprehend that there will be any disinclination on the part of the creditors to lend merely by reason of such legislation. As observed by the Agricultural Commission, moneylender's profits may diminish, his power may decline, but for many years to come, there will still remain a wide field for honest business in supplying the legitimate needs of agricultural operations. We are also alive to the fact that it is not unlikely that such legislation may be circumvented and the needy borrowers coerced to execute bonds for larger amounts than may be actually advanced. The risk of evasion is present in any ameliorative legislation of this kind, but does not by itself constitute a reason for not undertaking it. If even a proportion of debtors could be benefited thereby, it would be worth while.

48. The problem of controlling by legislation the transactions of money lending generally so as to protect borrowers against fraud has been gaining insistence everywhere in recent years. We understand that the question of undertaking legislation for this purpose in the State has been engaging the attention of Government.

Money-Lenders' Bill.

49. The Agriculturists' Relief Regulation and its extension to the Maidan parts have been stated to have affected the credit of the agriculturist considerably. This question is engaging the attention of another Committee which has been constituted by Government, and we do not, therefore, propose to deal with it beyond stating that, with suitable safeguards incorporated in it, the Regulation is bound to prove to be of benefit to the agriculturist.

Agriculturists' Relief Regulation.

VIII. LAND REVENUE AND OTHER CONCESSIONS.

50. The several measures of relief that have so far been sanctioned by Government in view of the agricultural depression are detailed in the appendix and may be broadly classed under the following heads:—

Existing Concessions to Continue.

- (i) Remissions of revenue.
- (ii) Moderation of miscellaneous demands.
- (iii) Relaxation of coercive processes.

These concessions have afforded fairly tangible relief to the agriculturists and have lightened the burden in the matter of their paying the Government dues. Under the existing orders, the concessions are in force until the end of December 1934. We consider that these concessions should be continued so long as the present depression lasts.

Collection of Land Revenue and other Demands.

51. We have obtained and appended to this report, a statement showing the land revenue and other demands recoverable by the Revenue Department in each taluk. The demands common to all the taluks are land revenue, cesses, (local, education, irrigation and railway cesses in some taluks) and village panchayet taxes. The other demands, such as the instalments on account of land improvement and takavi loans, tank restoration charges, tank maintenance charges and Record of Rights fees, vary largely in volume and incidence from taluk to taluk. In some taluks, the demand under these miscellaneous items and cesses bears a very large proportion to the total amount under all heads recoverable in the taluk. This is particularly the case in taluks like T.-Narsipur, Nagamangala, Mandya, Nanjangud, Channarayapatna, Holenarsipur and Hosdurga where it is almost equal to 50 per cent of the entire demand or is in excess of it. Deputy Commissioners are vested with discretion in the matter of postponement of the collection of these charges. We consider that much greater latitude should be allowed and exercised in the recovery of these dues and accordingly recommended that the collection of the amounts falling due this year in respect of land improvement and takavi loans and tank restoration and tank maintenance charges may be temporarily suspended at the discretion of the local officers, in cases where they find that the demand is likely to be unduly burdensome, no interest being charged for one year on the suspended instalments. With a view to the speedy disposal of applications for relief, it is desirable that the Amildars should be empowered to order the suspension of repayment of land improvement and takavi loans, the suspension of the contribution amounts for restoration of tanks and tank maintenance charges being, however, vested in the Deputy Commissioners.

The Government have in their Order No. R. 2532-42—L. R. 221-33-36, dated 27th November 1934, sanctioned the proposal as regards the instalments of land improvement and takavi loans with the modification that recovery of interest need not be waived, as it is likely to tempt people who can afford to pay to withhold payment. As the concession will be granted only in deserving cases, the recovery of interest would operate as a hardship and the Committee would therefore request the Government to reconsider their order and waive interest on the suspended instalments.

Collection of Overdue Instalments of Land Revenue.

52. The land revenue is at present collected in four instalments commencing from February each year and on default of payment of any one instalment, the revenue authorities demand payment of the entire amount including the instalments which have not fallen due and normally refuse to receive part payment of the dues and stay further coercive proceedings. The Committee consider that it will bring some relief to the raiyats if they are given the option of paying only the overdue instalments and if on payment of these instalments further coercive steps are suspended.

Collection in Cotton Areas.

53. In areas where cotton is the chief commercial crop, it has been represented that as this crop is generally harvested in the month of March and the grower of the crop can pay his land revenue only after March or April the khistbandi should be adjusted accordingly. We do not consider it desirable to have different khists in different areas and that the object with which the proposal is made could be served by the issue of suitable instructions to the officers that the adoption of coercive steps for recovery of assessment may be deferred till March in those taluks where the bulk of land revenue is paid from the proceeds of the cotton crop.

Mutation Fees.

54. The scale of Record of Rights fees has been recently reduced to Re. 1-8-0 per hisse and the recovery of the demand in easy instalments has also been permitted. The rate of mutation fees has also been further reduced in cases involving no measurement and the question of waiving such fees altogether in cases of mutations due to inheritance is under consideration of Government. We consider that even the existing rates of mutation fees, viz., 8 annas for a survey number subject to a maximum of Rs. 5 for all the numbers in the village included in a transaction, is heavy, as in such cases no measurement is involved and no tangible work devolves on the Revenue Department. We therefore, recommend that these rates may be reduced to 4 annas per survey number subject to a maximum of Rs. 2

Record of Rights Fees.

55. Some of the members considered that no fees should be levied during the preliminary operations connected with the Record of Rights as this would add to the burden of payments to be made by the agriculturists, particularly at the present juncture. But a majority of us consider that in view of the extra cost involved in carrying on the operations, it would not be possible to abolish these fees altogether. We would, however, suggest that the scale of fees may be further reduced to Re. 1-4-0 and that the Record of Rights need not be extended during the period of depression to taluks where the recovery of the fees might entail a serious addition to the existing revenue burdens.

56. It was suggested by one of the members that the irrigation cess in all the taluks in which it has been made a separate levy should be remitted, if it cannot be abolished altogether. But in view of the orders of Government declaring their definite policy in the matter, the Committee, as a whole, are unable to accept the proposal.

Irrigation
Cess.

57. A suggestion has been made that the Railway Cess in the districts in which it is being levied should be abolished. We have read the recent order of Government, explaining the reasons why the cess cannot be abolished. We, however, consider that as a measure of relief during the period of distress, the levy might be waived in the districts in which its collection is not required either for payment of interest charges or for maintenance of the open lines.

Railway Cess.

58. A strong representation was made to us that the levy of Village Panchayet taxes in some of the villages was pressing heavily on the agriculturists and that, therefore, the Panchayets should be given the option to continue or suspend the collection of these taxes, unless such a course is precluded by reason of pre-existing commitments. The Panchayet scheme was brought into force over eight years ago and with the greatest difficulty most of the Panchayets have been brought into working order and the results of the scheme are now beginning to be realised. We feel that any action in the proposed direction now will result in weakening the resources of the Panchayets and lead to a set back in rural reconstruction work.

Village
Panchayet
Taxes.

But our objections relate only to the current demands which, in the great majority of cases, are quite moderate and which the poorer rate payer may discharge by contributing labour in lieu of paying cash. As regards arrears, however, we understand that they are very heavy and represent the cumulative neglect of the Village Panchayets and their predecessors for many years in the past. The prospect of recovering them is somewhat remote and their nominal retention on the Panchayet accounts is fraught with the possibility of confusion and fraud. The half-hearted attempts made to realise them are a source of harassment. We consider that all arrears which accrued prior to the year 1930-31, may be written off. In respect of arrears relating to subsequent years, the Panchayets may be allowed, having due regard to their commitments, to write off not more than 50 per cent with the sanction of the Deputy Commissioner, if the balance together with the whole of the current demand is paid within a stipulated time.

Any measure of this kind is attended with the risk of creating an impression that defaulters get concessions which are denied to the regular tax payer. But it is better to face this risk than to leave the rural rate payer in anxiety and the Panchayet affairs in confusion.

59. We have examined the rules relating to the grant of remissions of wet assessment under tanks and consider that under the present conditions, the rules need to be liberalised on the lines indicated below.

Wet Assess-
ment Remis-
sion Rules.

Under the existing rules, the remission of half the assessment is granted provided more than half the area of wet lands under the tank has remained uncultivated or, if cultivated, has yielded a crop of not more than four annas and provided further the tract has already been so impoverished or the previous years' harvests have been so poor as to render such a measure of relief necessary. The second condition was relaxed last year, in view of the depression and the Deputy Commissioners were instructed not to withhold the submission of recommendations for remission in cases which satisfied the other conditions of eligibility, merely on the ground that the previous harvests in the tract had been normal. As the economic depression still continues, we consider that this restrictive condition should be suspended during the current year also. As regards the other condition, viz., that more than half the area should have remained uncultivated, it may be observed that even in normal years the entire atchkat under certain tanks may not be cultivated and that this difficulty is increased during the current year, owing to insufficient rainfall in many parts of the State. We propose, therefore, that this condition might also be relaxed during the current year.

As regards the quantum of remission, one-half of the wet assessment is ordinarily remitted; but in cases where dry crops are raised with a yield of more than eight annas, the amount remitted is one-half of the difference between the wet and dry rates. It is considered that a more liberal treatment is due in respect of lands which are not cultivated at all or if cultivated, have yielded a crop of less than four annas, as in such cases, the return to the raiyat, if there be any, would not even cover the cost of seed and other expenses of cultivation which he has unavailingly incurred. The majority of the Committee, therefore recommend that in these cases the highest dry rate or half the wet assessment, whichever is less, may be imposed and the balance remitted.

Some of us, however, feel that the grant of remission of half the wet assessment is itself a concession and that the circumstances of the present situation do not warrant a wholly different method being adopted for determining the amount of remission to be given in such cases.

Remission
under
Breached
Tanks.

60. In connection with the question of remissions, we had an opportunity of examining the rules regarding the grant of remission of assessment on lands under breached tanks contained in paragraph 234 of the Mysore Revenue Manual, Vol. I. Rule (1) of the aforesaid rules provides that when by breach or any other accident, a tank or other work of irrigation is not available for irrigation, in lieu of the wet assessment on lands situated under such tanks or other work, there shall be substituted during the first year of the breach or accident and succeeding years during which the tank or other work may remain unrestored and unavailable for irrigation, a temporary reduced assessment of half the full assessment which should be levied as *Bengar Kundayam*, the remaining half being shown in the accounts as a remission without reference to any dry crop which may be raised. The Committee feel that, in such cases also, there is no justification for recovering anything more than the dry assessment and recommend that if the occupant raises only dry crops and the prospect of the tank being repaired is remote, dry assessment in lieu of half the wet assessment may be levied.

Special Con-
cessions for
Total Failure.

61. In view of the possible failure of crops this year in certain parts of the State following a series of years of depression, the Committee would suggest that in tracts where the crops have completely failed and the conditions border on distress, the Government may consider the question of granting some concession by way of remission of a part of the assessment on dry lands.

Tank
Maintenance
Charges.

62. It has been brought to our notice that the amount recovered from raiyats for work rendered necessary on account of tank maintenance is sometimes excessive. Prior to 1927, the maximum amount that could be levied on this account was limited to one year's assessment on the lands included in the atchkat of the tank. As this limitation was considered harmful and set a premium on neglect, it was modified in 1927 so as to allow some latitude to officers to recover ordinarily the entire expenditure incurred for the purpose. We consider that if cumulative neglect has been allowed to occur, it is as much due to the neglect of the officers in not taking action in time as to the raiyats themselves. There might be some justification for recovering the entire expenditure in cases where the raiyats have wilfully and defiantly neglected this work. But barring such special cases, we recommend that until general conditions improve, the maximum limit of the raiyats' liability may be restricted as before, to one year's assessment on the atchkat lands.

IX. LAND REVENUE ASSESSMENT.

63. Representations have been made to Government in the Representative Assembly and elsewhere that the burden of land revenue has increased owing to the fall in prices, and that the payment of land revenue constitutes one of the causes of agricultural indebtedness. It has been accordingly suggested that during the period of depression the assessment should be reduced to the level of the rates in force before the Revision Settlement took place, or that in the alternative, a temporary remission should be given ranging, according to different proposals, from $6\frac{1}{2}$ to 50 per cent of the land revenue.

64. The Committee could not avoid divergence of opinion on this point. Three of our colleagues are for a general percentage cut of $12\frac{1}{2}$ per cent in the land revenue, while two others would have the cut as high as 25 per cent. The rest of us are unable to recommend any general percentage cut in the land revenue. As this is a very important subject, we propose to dwell at some length on the reasons for our divergent views. The grounds urged in support of the proposed cut in land revenue are set forth in the dissenting notes appended to this report. The considerations which led the majority of us to take a different view will now be referred to.

65. We may observe at the outset that the plea for any kind of general remission has lost much of its force, owing to the marked increase which has recently occurred in the prices of the more important agricultural products of the State such as ragi, paddy, jola and horsegram. Whatever may be the course of prices in the future, there appears to be no likelihood at the moment of their coming down to any appreciable extent as the result of the next harvest.

It is true that during the current year the rainfall has been untimely and inadequate. But the difficulties arising on this account will be essentially of a local character and will involve no question of a general remission. The nature of the concessions that may be appropriately given in case of failure of crops in particular tracts are laid down in considerable detail in the standing orders, and we have elsewhere indicated certain directions in which these concessions might be liberalised.

From the information regarding the net profits from agriculture that we have been able to gather, we find that even with low prices, the land revenue assessment is well within the conventional one-sixth gross produce or half the net produce. The land revenue is relatively not a very large item in the agriculturists' budget, and if any difficulty is being felt in

regard to its payment, this has to be traced to other causes and not to the pressure of the land tax itself. While it is true that for meeting the annual revenue demand, the agriculturist had to dispose of a larger quantity of produce than he had become accustomed to during the long period of high prices, it cannot be said that the pitch of assessment itself is too high.

66. The suggestion made in the Representative Assembly that the rates should be reduced, as a temporary measure, to the level of the original settlement rates does not appear to us to be feasible or even reasonable. It may be noted that in respect of 22 taluks or portions of taluks, Resettlement had been sanctioned or proposals for Resettlement had been submitted to Government before the outbreak of the Great War. Nine taluks were settled during the years 1914 to 1920, while the remaining 41 taluks were resettled between 1921-22 and 1929-30. So far as the taluks resettled before outbreak of the War are concerned, there seems to be no necessity to examine the effects of Resettlement, as it took place at a time when the prices were more or less the same as or lower than those at present. As regards the other taluks also, a perusal of the Resettlement reports shows clearly that the Settlement Officers have carefully avoided taking into consideration the abnormal prices that prevailed after the War.

In the Chikmagalur Taluk, while the increase in the prices ranged from 215 to 420 per cent, the dry rates were advanced by 29 to 33 per cent, and wet rates by 12 to 22 per cent, and the garden rate was reduced to 25 per cent. In the villages comprised in the late Honnavalli Taluk, the rise of prices ranged from 100 to 300, while the enhancement of the assessment was only 29 per cent in the dry rate and 6 and 7 per cent in the wet rate. In the Mulbagal Taluk, while the increase of price ranged from 100 to 300, the dry assessments were raised by 9 and 10 per cent and the wet and garden assessments were left as they were. In the taluks of Bangalore, Kankanhalli, Chamarajnagar and all the taluks of the Kolar District, only the dry rates were increased and the wet and garden rates were left undisturbed while in a few cases even the wet and garden rates were reduced from the original settlement level.

In this connection, we may note that a consideration of maximum rates alone is apt to be misleading. The maximum rates really relate to ideal classes of land not always actually met with. They are levied only when the water supply and the soil are both of the first order where either or both of these elements are inferior, the rate is proportionately low. As a rule, very few lands are assessed at the maximum and often there is no such land at all. For example, although in the Seringapatam Taluk, the maximum wet assessment is fixed at Rs. 15, the highest actual is only Rs. 13-2-0 and there is only one acre in all the tract which bears even this rate. Likewise, although the maximum dry rate in the Kankanhalli Taluk has been fixed at Rs. 2-6-0 for the first group, the highest dry rate actually levied is only Rs. 2 and the lowest rate in this class is seven annas.

The fact of the matter is that the policy and methods of resettlement in the State preclude any undue reliance being placed on the price factor alone. Enhanced agricultural resources of the raiyat, increase of acreage under cultivation, the past Revenue history of the tract are all taken into consideration equally with the rise in prices of the agricultural commodities in arriving at the revised rates to be introduced in an area. Any proposal therefore to revert to the original settlement rates would be to ignore the vast changes in local and general conditions which have taken place for half a century and which have led to the rates being reduced in some cases and increased in others during resettlement, the reduction having taken place in spite of the general rise in prices and the increase, without reference to the steepness of such rise during the post-war period.

67. The alternative proposal for relief urged by some of our colleagues is to reduce the assessments all round by a definite percentage. At the outset, this proposal fails to discriminate between cases which deserve relief and those which do not. We have examined the proposal with reference to the effect that it is likely to have on the finances of the State and the objective benefit that is likely to accrue to the agriculturist. Even a remission of 12½ per cent or 2 annas in the rupee would entail a loss of Rs. 15 lakhs to Government and should the quantum of remission be doubled, the loss to the State, would be Rs. 30 lakhs. As against this substantial loss of revenue to the State, there is no certainty that this measure would bring any tangible benefit to the agriculturists. As pointed out in an earlier part of the report, out of nearly a million khatedars, nearly 87 per cent pay kadayam of Rs. 25 or less and of these, 432,081 pay an assessment of Rs. 5 or less, and 442,493 an assessment of over Rs. 5 but less than Rs. 25. At the rate of 2 annas per rupee, these holders get relief to the extent of from a few annas to about Rs. 3, and in the bulk of these cases, the benefit is not likely to be more than half a rupee. The extent of relief to the majority of landholders will thus be very little. Further, it is common experience that the smaller raiyats have been paying their assessment without any difficulty.

We should, however, make it clear that our inability to support the proposal under consideration does not imply any lack of appreciation of the present difficulties of the

agriculturist. We consider that it is the burden of the several miscellaneous demands on the agriculturist introduced in an era of high prices that has led some of them to feel that even the land revenue is burdensome. It is in this view that we have recommended the lightening of the new burdens such as, arrears of Village Panchayet taxes, Record of Rights fees, tank maintenance charges. We have also recommended suspension of loan instalments. It is some of these items which operate as a hardship at the present moment. The majority of us feel convinced that it is not two annas in the rupee that is going to make any tangible difference to the burden of the raiyats.

X. GENERAL SUGGESTIONS AND SUMMARY.

68. We are mainly concerned with problems arising from the present economic depression. But at every point, we have been brought face to face with the fundamental defects of our agricultural economy which the depression has only served to emphasize. We may therefore cursorily refer to certain permanent measures of rural improvement which have been recommended from time to time by various authorities and to which our special attention was drawn in the course of our enquiry.

Improvement of Agriculture.

69. The Director of Agriculture has favoured us with a note which is appended to this report indicating the lines on which the efficiency of agriculture may be improved and the raiyat enabled to realise the maximum amount for his labour. Improvement in irrigation facilities, the growing of better yielding varieties, the use of more efficient implements and of better manure, conservancy and utilisation of farm yard manure on a larger scale instead of allowing it to be wasted as fuel are among the most important measures requiring attention. It is said that a great deal of improvement is also possible and is urgently called for in the business of farming itself, so as to reduce the cost of cultivation.

Silk Industry.

70. So far as the Silk Industry and the expansion of cultivation of mulberry in the State is concerned, we understand that the question has been considered in all its details by the Mysore Silk Association and that comprehensive proposals for the improvement of the industry have been submitted by that body to Government.

Irrigation Facilities.

71. Another important direction in which the efficiency of agriculture could be improved is the provision of irrigation facilities, which would place agriculture on a stable basis and make it less dependent on the vagaries of nature. The Government have been spending, particularly in recent years, considerable sums of money for the improvement of irrigation resources. Out of 2,655 major, and 20,779 minor tanks, 2,368 major tanks and 5,579 minor tanks have been restored and even excluding 8,133 tanks which have been abandoned, there is still a large number which has to be restored. Some of the tanks, it is stated, require only a sluice or a waste-weir to make them function at a comparatively small outlay. We consider that a systematic programme of restoration work should be drawn up and as many of the tanks as possible should be restored at a very early date.

Acreage Contributions.

72. In this connection we have examined the system of acreage contributions recoverable from the raiyats benefited by the restoration or improvement of works of irrigation. This system is peculiar to Mysore and although levies comparable in character, if not in amount, are to be found here and there, it is understood that it does not, as a rule, prevail in British India. Yet, it is not without theoretical justification, as it is but fair that the State should take from the owner of land a share of the unearned increment accruing as a result of new irrigation facilities provided by the State. The contribution is a capital levy but, with a view to easing the burden on the raiyat, it is being recovered in instalments, the maximum period allowed for completing payment being 10 years. In practice, we understand that the periods fixed are generally shorter.

As the rate of contribution now-a-days is rather high, it seems to us that the payment of one-tenth of this amount every year together with the water rate may, in some cases, be felt by the raiyats as a heavy recurring burden. We would, therefore, suggest that in cases where the contribution or a substantial part of it is not recovered in a lumpsum before an irrigation work is commenced (which is, of course, the best arrangement), its collection may be spread over a sufficiently long period, as in the case of land improvement loans, so that the raiyats can easily pay the same out of their income from the benefited lands.

Irrigation Wells.

73. We consider it necessary to advert to the important part played by well irrigation in the economy of agriculture. Wells are sometimes found beneficial even in wet lands commanded by an uncertain source of supply. Their value in respect of dry lands is, of course, even greater. We recommend that steps should be taken to popularise the scheme of irrigation wells and to induce the agriculturists to sink such wells wherever they are likely to be successful. For this purpose, liberal grants should be provided in the Budget to admit

of suitable advances being made, recoveries being spread over sufficiently long periods. It is necessary to have a special agency to advise the raiyats about well sites and to supervise, and if necessary carry out, well works on the raiyats' behalf. It is understood that very appreciable progress was made some years ago when a special agency was in existence for this purpose.

Fragmentation of Holdings.

74. There has been considerable discussion about the effect of fragmentation of holdings on the economy of agriculture, and it is generally held that this would be a measure of great and immediate benefit. Experience of the scheme of consolidation elsewhere has shown that it has checked litigation to a considerable extent and made intensive cultivation possible. In the Punjab, the scheme of consolidation is being worked on the basis of co-operation while in the Central Provinces, an Act has been passed under which not less than half the permanent raiyats holding not less than two-thirds of the occupied area can combine in a scheme of consolidation and coerce the minority to accept the consolidation. The legislation in Baroda aims at not only consolidation but also prevention of further fragmentation. In the villages in which the scheme has been attempted in the Punjab, it is understood, that where there were only about 24 irrigation wells, it has now been possible to have as many as 2,000 wells. This subject has been engaging the attention of another Committee and we refrain from making any detailed recommendations. We, however, consider a suitable scheme is well worth a trial in Mysore also.

Marketing Facilities.

75. The existing system of marketing the important Malnad products and the suggestions for improvement of the same have been dealt with by the Malnad Depression Enquiry Committee of 1931. We do not, therefore, propose to refer at any length to the question of marketing these products. Defects.

76. Several factors contribute to the growers not realising a satisfactory price for their commodities. The agriculturists often obtain money and grains from moneylenders or traders on onerous conditions. A common stipulation is that the entire produce shall be sold to the trader or moneylender for a fixed price, or that a certain quantity of produce, generally far in excess of the quantity borrowed, would be delivered at the harvest in repayment of the loan. In such cases, the producers do not get the best price for their labour. The need of the agriculturists for money at the time of the harvest for repayment of their debts or for meeting the interest charges or other obligations necessitate their selling the produce at an unfavourable price.

Further, in the process of marketing, a long chain of middlemen, commission agents or dallals intercept the profits at every stage, with the result that the difference between the price realised by the growers and those at which the products ultimately reach the consumer is shared by the intermediaries. The methods of these middlemen are often unfair and involve various exactions for pretended service. Among the other handicaps of the cultivators may be mentioned the want of uniform weights and measures, the absence of properly regulated markets and the lack of knowledge as regards the areas where the commodities could be marketed to the best advantage.

77. The main object underlying all suggestions for the improvement of marketing is to ensure for the producer the utmost price for his labour, by minimising the number of intermediaries between him and the consumer, and to enable him to avoid selling his produce in a glutted market during what is known as the 'harvest slump.' Suggestions.

78. In our opinion, the Co-operative Sale Societies would be the best organisation both for advancing money to the cultivators on the security of produce, and for arranging for the sale of the produce collectively, as the bulk created is likely to attract a dealer of more than local importance who would offer the best price. The sale through Co-operative Societies should be specially advantageous in the case of commercial crops meant for export. Co-operative Sale Societies.

The reports of the Co-operative Department show that the sale societies have not been much of a success so far. But we do not think that this should deter us from persevering in this direction.

79. A survey of the existing marketing conditions should be made, particularly in regard to commercial crops like areca, cotton and cocoanut and the problem of finding a suitable and profitable market in and outside the State should be investigated and the growers of the crops should be offered the necessary guidance in the matter. We would suggest for this purpose the appointment of a marketing officer with experience of agricultural and trade conditions. Marketing Survey and Marketing Officer.

The question of establishing regulated markets in important places of trade should also receive early consideration.

Weights and Measures.

80. The Weights and Measures Regulation is in force in 16 centres. We consider that it is necessary that the operation of this Regulation should be extended to all important trade centres and all taluk headquarters so as to ensure that the use of false weights and measures and consequent loss to sellers are avoided.

Utilisation of the Spare Time of the Agriculturist for Increasing His Income from Subsidiary Occupations.

81. As observed by the Royal Commission on Agriculture, a prominent feature of Indian agriculture is the amount of spare time which it leaves to the cultivator and which can usefully be mobilised for some subsidiary occupation which will supplement the agriculturists' resources and help him to improve his economic position. The peasant proprietor cannot keep out of debt unless he is exceptionally industrious and frugal, or has a second string to his bow. In connection with the Economic Conference, attempts have been made in the past to popularise the scheme of the rural and cottage industries to increase the earning power of the rural folk. We consider that the time is now come to do some intensive work in this direction throughout the State. Various industries have been suggested as being suited to particular areas. This is understood to be engaging the attention of the Industries Department and the recently constituted Board of Industries and Commerce. The success that has attended the hand-spinning and hand-loom industry in several parts of the State warrants, in our opinion, a wider effort for popularising subsidiary rural industries in the State.

Summary of Recommendations.

82. The recommendations made in the foregoing paragraphs are summarised below:—

1. The recommendations of the Malnad Depression Enquiry Committee of 1931, may be published and treated as supplementing our own proposals. (Para 4)

2. (i) Takavi Loans should be liberally granted during the current year.

(ii) The rate of interest on these loans should be reduced to 4 per cent for a period of two years.

(iii) Applications for these loans should be disposed of promptly.

(iv) The budget provision for the purpose during the current year should be raised by one lakh of rupees. (Orders have been passed on these proposals in G. O. No. R. 33-43—L. R. 221-33, dated 16th—17th October 1934) (Para 6)

3. Relief in the matter of enforcement of decrees of Co-operative Societies against agriculturist debtors may be granted on the following lines:—

(i) In the case of decrees relating to very old loans, execution may be suspended if all interest up to date and a small portion of the principal is paid.

(ii) In the case of decrees in respect of fresh loans granted recently and in regard to suits filed during the current year, time till the next harvest may be granted. (These proposals have been approved by Government in their Order No. D. 2689-740—C. S. 18-34-2 dated 6th—10th October 1934) (Para 6)

4. (i) A scheme of debt conciliation on a voluntary basis so as to bring down the standing debt of the agriculturists within their repaying capacity is recommended. A majority would recommend provision being made for the introduction of the scheme on a compulsory basis in selected areas at the discretion of Government. (Paras 28 and 33)

(ii) The compounded debt should be recoverable as arrears of land revenue in the first instance, and failing this, through processes of Civil Courts.

(iii) Payment of settled debts may be undertaken by Co-operative Societies and Land Mortgage Banks. (Para 34)

(iv) The maximum limit up to which loans may be sanctioned by the Land Mortgage Banks may be raised from 50 per cent to 70 per cent of the market value of the security taken. (Para 34)

(v) Land Mortgage Societies should be rapidly extended so that every taluk may have one such society. (Para 35)

(vi) A simple, inexpensive and expeditious method of rural insolvency should be provided for in the case of debtors whose debts far exceed their assets. (Para 37)

5. (i) Wide publicity should be given to the rules for the grant of land improvement and takavi loans.

- (ii) Applications for loans should be disposed of promptly.
- (iii) The period of repayment should be sufficiently long to permit of payment in easy instalments.
- (iv) Larger allotments should be made for the purpose. (Para 40)

6. Co-operative Institutions being the best form of organisation for financing agriculture, these institutions should be increased rapidly and their working improved. (Para 41)

7. Legislative provision should be made declaring that in regard to the agriculturists' debts, the following rates of interest should be considered excessive :—

- (i) Simple interest in excess of 10 per cent for secure debts and 15 per cent for unsecured debts.
- (ii) Compound interest at intervals of less than six months. Rates of compound interest should be tested with reference to the above limits of simple interest.

The above rates should apply to interest accruing in future. (Paras 44 and 45)

8. The benefit of the rule of Damdupat may be extended to Mahomedan debtors also. (Para 46)

9. (i) The concessions in the matter of payment of land revenue and other demands relaxation of coercive processes etc., which are in force till the end of December 1934, may be continued so long as the depression lasts. (Para 50)

10. In the matter of recovery of land improvement and takavi loans dues and tank restoration and tank maintenance charges, the instalments due may be temporarily suspended in cases where the demand is unduly burdensome, no interest being charged on the suspended instalments. For the expeditious disposal of applications in this behalf, Amildars may be empowered to order suspension of land improvement and takavi loan instalments. (Orders of Government have since been received *vide* G. O. No. R. 25-32-42—L. R. 221-33-36, dated 27th November 1934, sanctioning the above proposals with the modification that the recovery of interest need not be waived). Reconsideration of the Order as regards waiving of interest on suspended instalments is urged. (Para 51)

11. On Land Revenue falling into arrears, only the overdue instalments should be collected instead of the entire demand, and coercive proceedings should be stopped on payment of the same. (Para 52)

12. In cotton growing areas, the adoption of coercive steps for recovery of assessment should be postponed until March. (Para 53)

13. The scale of mutation fees in cases involving no measurement may be reduced to 4 annas per survey number, subject to a maximum of Rs. 2 in respect of all the numbers in a village included in a transaction. (Para 54)

14. The scale of Record of Rights fees may be reduced from Rs. 1-8-0 to Rs. 1-4-0 per hisse. (Para 55)

15. The Record of Rights operations need not be extended during the period of depression to taluks where the recovery of the fees would be a serious addition to the existing revenue burdens. (Para 56)

16. Levy of Railway Cess may be waived temporarily in the Districts in which its collection is not immediately required. (Para 57)

17. (i) Arrears of Village Panchayet Taxes relating to the period prior to 1930-31, may be written off.

(ii) As regards the arrears of subsequent years, a sum not exceeding 50 per cent may be remitted by the panchayets with the sanction of the Deputy Commissioner, if the balance as well as the current year's demand is paid within a stipulated time. (Para 58)

18. The rules regarding the grant of remission on wet lands under tanks may be liberalised as follows during the period of depression :—

(i) The restrictive conditions that more than half the area of the wet lands under the tank should have remained uncultivated, or if cultivated, should have yielded a crop of not more than four annas, and that the tract should be shown to have been impoverished on account of the poor harvests in preceding years may be relaxed.

(ii) In respect of lands which are not cultivated at all, or, if cultivated, have yielded a crop of less than four annas, the highest dry rate or half the wet assessment, whichever is less, should be imposed and the balance remitted.

(iii) Under breached tanks, only dry assessment should be imposed in lieu of half the wet assessment now recoverable under the rules. (Paras 59 and 60)

19. In areas in which crops have completely failed this year, the question of granting partial remission of assessment on dry lands may be considered, if the conditions border on distress. (Para 61)

20. As regards the liability for tank maintenance, the maximum amount that may be levied from raiyats for work rendered necessary by their cumulative neglect may, except in special cases, be limited during the period of depression to one year's assessment of the land included in the atchkat of the tank. (Para 62)

21. A systematic programme of tank restoration works should be drawn up and as many of the tanks as possible should be restored. (Para 71)

22. Tank contributions should be recovered in easy instalments. (Para 72)

23. The scheme of irrigation wells should be popularised, liberal grants being provided for advances for this purpose.

A special agency to advise the raiyats about well sites and to supervise and to carry out well works is recommended. (Para 73)

24. A suitable scheme of consolidation of holdings is worth a trial. (Para 74)

25. Co-operative sale societies should be organised on a larger scale for advancing money to cultivators and for arranging for the sale of the produce collectively. (Para 78)

26. A survey of the existing marketing conditions should be made especially in regard to commercial crops. The appointment of a marketing officer with experience of agricultural and trade conditions is recommended.

Regulated markets should be established in important places of trade. (Para 79)

27. The Weights and Measures Regulation should be introduced into all important trade centres and taluk headquarters. (Para 80)

28. Rural and cottage industries should be developed on a large scale throughout the State for enabling the agriculturist to increase his income by utilising his spare time. (Para 81)

83. Our deliberations have occupied much longer time than was anticipated, and we regret that we could not present this report before the end of November as required by our instructions. We had to obtain the opinions of officers and non-official gentlemen whom we decided to consult on the subjects under inquiry and although this procedure has occasioned some delay, it has enabled us to base our conclusions on information gathered from varied sources. We wish to express our obligations to the several gentlemen who have placed at our disposal the results of their observation and experience. We also wish to place on record our appreciation of the valuable help we have received from our Secretary, Mr. S. K. Venkataramana Aiyar, who had a really arduous task as the common Secretary of two committees, assisted only by a minimum of clerical staff.

(Sd.) N. MADHAVA RAU.

„ K. V. ANANTARAMAN.

„ A. K. YEGNANARAYANA IYER.

„ T. G. RAMA IYER.

„ M. G. MEHKRI.

„ T. V. A. ISVARAN.

„ K. R. SRINIVASIENGAR.

„ *B. K. GARUDACHAR.

„ *J. M. IMAM.

„ *K. CHENGALARAYA REDDY.

„ *B. S. PUTTASWAMY.

„ *HOSAKOPPA KRISHNA RAO.

Supplementary Notes and Minutes of Dissent.

(1)

The matter of reduction of land revenue has been to the fore from a pretty long time and various grounds have been urged justifying the necessity and equity of such a reduction. But it has assumed special importance ever since the catastrophic fall in the prices of agricultural produce set in, completely sapping the staying power of the raiyat and bringing him almost to the verge of ruin. It was hoped that the Committee, as a whole, would appreciate the justness and equity of the demand and make an unanimous recommendation in the matter. But it is a pity that that hope has not been fulfilled.

It is said that in no case in the State is the land revenue assessment in excess of the conventional one-sixth gross produce or half the net produce. It would be difficult to justify even that position if by half net produce is meant half net income, since certain statistics at the disposal of the Committee has clearly shown that in the case of many crops, the operations have resulted in a loss or only a meagre net income. Be that as it may, the fact is that our land revenue has not been determined on any definite basis but mostly on empirical considerations. The rate is arrived at "not upon the formal working out of results based on theory but rather upon the subjective impression of local knowledge and experience" and it is futile to rely upon one-sixth gross produce or half the net produce basis.

It is not necessary to discuss now the incidence of land revenue assessment prevailing in our State in the light of certain accepted canons of taxation but a reference must needs be made to one aspect of the same, since it is said that land revenue is not very large item in the raiyat's budget, his difficulties are due to other causes, and that the pitch of assessment is not high. When considering the equity or otherwise of the assessment, it seems but proper that the ability of the class of persons who pay it has to be determined after taking *all* aspects into consideration instead of an isolated factor only. High authority and actual experience supports the contention that our land revenue system is defective in respect of the most vital canon of taxation, *viz.*, canon of ability, and that the pitch of the assessment is high.

The economic position of the raiyat in Mysore has been a most miserable one along with his compeers in India from a very long time and his staying power has at no time been of a high order. His has always been an eternal struggle to make both ends meet and live a precarious existence. He has been managing to pay his land revenue only with the greatest difficulty, oftentimes by having recourse to borrowing. The land revenue, which was even originally high, was generally increased during the resettlements, and more than that various other demands like the local, irrigation, education and railway cesses have been tacked on to the main demand, with the result that the cumulative demand has been very burdensome to bear. Add to this the tank restoration contributions, Record of Rights fees and last but not least the Panchayet taxes all of which have practically broken the back of the poor patient peasant.

The interregnum after the Great War when the prices of produce rose considerably seemed to bring an era of comparative prosperity to him. He increased his standard of living. He borrowed both for provident and improvident purposes, oftentimes at high rates of interest with the fond hope that he would be in a position to pay off the debt. The cost of cultivation also rose and he could cope with all these additional demands as long as the prices of produce kept up at the increased level. This was the position when the sudden and fierce economic depression set in. The value of produce declined disastrously and the extent of the same and its effect on the agriculturist have been stated in the report. In any case, agriculture ceased to be remunerative, and the operations were carried on on traditional grounds and in the hope of better days to come. But the land revenue demand with its new accretions has remained the same. The luxuries of yesterday have become the necessities of to-day and the cost of cultivation has not shown any tangible decline. The demand under debt and its incident obligations has been considerably intensified. Thus whereas the demands on his purse have remained the same, if not actually increased, there has been a serious shrinkage in his revenue. To meet the dire situation, he exhausted his financial reserves, sold his gold, a good portion of his cattle and it would be no exaggeration to say that the majority of peasants in the rural parts to-day are nothing more than undeclared insolvents. And on the top of it all has come a year of scanty and erratic rainfall and the agricultural prospects are very gloomy. During the last few years, he had at any rate no fear of starvation, but even that horrid contingency stares in his face at the present moment. It is, under these circumstances, that a demand is made for relief by way of reduction in land revenue assessment and none can successfully contend that it is not a just demand.

It has, no doubt, been suggested that we have to go back to the level of the original settlement rates, but none in the Committee has sponsored the suggestion for various

reasons. And so it seems to be unnecessary to go into details. But that only means that particular mode of granting relief is not favoured and nothing more.

The only other alternative is to reduce the land revenue by a definite percentage. From the view point of the agriculturist, the situation demands a drastic reduction but unfortunately this must needs be moderated in view of the present financial position of the State. The maximum reduction that is therefore sought to be suggested is 25 per cent. It is, no doubt, not possible to justify on *a priori* considerations the same uniform reduction in all tracts, and it would be worth while, if it were easily possible to adopt different scales in different tracts, consideration being paid to the incidence of assessment and nature of crops grown in each tract. But if there are any difficulties in the practical working out of such a proposal as it was strongly represented to be, then the next best method is to adopt a uniform reduction throughout the State. The ancient argument that the majority of landholders are only small landholders and that the benefit that would accrue to them by the suggested percentage reduction would be very small and problematic as against a substantial loss of revenue to the State is again urged with full force. But this argument is not convincing. If it were so, then a percentage reduction at least in the case of large holders of land who as a class have been admittedly the hardest hit by the depression would have been recommended. But even that has not been done. It is also urged that the prices of produce have gone up since to a considerable extent. But it is admitted in the report itself, that the continuance of the price at the increased level is problematical and cannot be counted upon. Apart from that, the main fact to be borne in mind is that the rise in price—to the extent there has been—is the direct outcome of a failure of crop which leaves nothing to be sold. Nay, if it is necessary for the raiyat to purchase produce for his requirements owing to the considerable diminution of his crop, he has to buy at a higher price. Thus, the benefit of the rise in prices will not result to his advantage under the present circumstances. The bare fact is that the paramount needs of the raiyats are sought to be sacrificed at the altar of the State Finances. The need of the hour is a liberal attitude towards the raiyat in the matter of assessment and it will go not a little in instilling a ray of hope and courage in the all but dead heart of the raiyat, and after all, is anything novel being advocated which other Governments have not done? The Cochin, Travancore, Punjab, Madras and certain other provinces have taken action more or less in this direction. And why should not such examples be copied by our State as well? It would redound to the credit of the State and result in the contentment of the people.

K. CHENGALARAYA REDDY.

(2)

- (1) About the formation of a Conciliatory Board and making the scheme compulsory, I am agreeable if the payment of the settled amount is assured by Government or by a statutory body, issuing bonds, etc.
- (2) About the Agricultural Relief Act, I am of opinion something should be said, at least ways and means to be shown for the speedy recovery of the amount lent by the creditor.
- (3) About the temporary reduction of assessment, Government members are all one in not recommending any reduction and the report is drawn up elaborately to support their conviction. In the report, it is said the small land owners who are in majority in the State will not be benefited in any way, but the Government will lose very heavy amount. In the same report, it is said that the middle class land owner has most suffered. The middle class land owner is also the subject of His Highness' Government and he deserves every consideration in the hands of Government. So, the reduction of assessment is beneficial to this class of land owners; indirectly, it will benefit small land owners also. I would not at all have pressed the matter so much, but for the failure of the crop. The raiyat population will feel the pinch more in the supply of fodder to cattle than food grains. On this account, I am convinced that at least 12½ per cent remission should be given.
- (4) I may also bring to the notice of the Committee that the fate of superior landholders is worse than any other landholder. If the Government is kind enough to show the concession asked for, the position of superior landholder should also be considered. As it is, I may say it is very difficult for the Inamdar to collect the dues from his tenants to meet the Government obligations and make a living of himself. So, it is a serious matter to be considered.

B. K. GARUDACHAR.

(3)

While I agree in the main with the recommendations of the Committee, I feel, however, constrained to write this minute of dissent as my views in regard to two important points, *viz.*, the scheme of debt conciliation outlined in the report and the suggestion that the land revenue assessment cannot be reduced are somewhat at variance with those of the majority.

2. The compulsory system of conciliation advocated in the report has many drawbacks and disadvantages. It is an attempt at a synthesis of provisions of Agriculturists' Relief Regulation on a wider scale with the laws of arbitration and insolvency. The avowed object of this is to give relief to the raiyat who is sunk in the morass of indebtedness. The pervading poverty of the Indian raiyat population is a matter about which even the Simon Commission Report has given a harrowing description. While it is admitted on all hands that the remedy lies in a comprehensive scheme for the liquidation of the illiteracy of the masses and for the amelioration of their economic conditions by means of improving their methods of production and distribution and affording them adequate credit facilities by the extension of banking and co-operative institutions, it is necessary that some interim remedy must be found to give them immediate relief in the present period of acute economic depression.

3. The scheme of debt conciliation is one of the several methods tried in some parts of India with varying measures of success. The *sine qua non* of the successful working of the said scheme is the existence of some agency which would undertake to pay down in cash the settled debt forthwith or spread over some period of time. Such an agency might be either the Government or the Co-operative Credit Societies such as Land Mortgage Banks. I agree with the view of the majority when they say that it is neither practicable nor possible for the Government to shoulder this responsibility at present. The only other alternative therefore is the establishment of the Land Mortgage Banks in all parts of the State which would undertake to liquidate the debts. But this is a remote possibility. To introduce compulsion without creating means whereby the money lender would be recompensed for the sacrifice he makes, would be most inequitable besides being detrimental to the credit facilities that are at present available. With the shrinkage of credit that inevitably follows on the introduction of the compulsory scheme, the agriculturist would be deprived of the monetary help that he is getting from the local sowcar. The private money lender is an indispensable factor in the rural economy of Mysore and he is serving the credit needs of a vast rural population and it would be hardly possible to find a substitute for him in the immediate future. The average rate of interest charged by the local sowcar is comparatively very reasonable and moderate. As compared with his brethren in the Punjab and in other parts of India, it must be said to his credit that he is much better in his dealings with the raiyats than they, and he does not generally exploit the agriculturists by means of unconscionable transactions. The eventual disappearance of this class of money lender which would result from the introduction of the compulsory scheme of conciliation proposed in the report would have disastrous consequences on the rural population.

4. From the experience of the actual working of the Land Mortgage Bank, we have seen that it is not possible to secure easy, quick and satisfactory credit facilities to the agriculturists. The fault is rather inherent in the institution itself than in any personnel working it. On the other hand, a private money lender who is in constant contact with the agriculturist takes risks and advances money even though there is no adequate security and thus provides facilities to the agriculturist even in cases where the Land Mortgage Banks would hesitate to do. So, in short, unless the Government undertakes the responsibility for the amortisation of the conciliated debt either as in Bhavanagar or as in Cochin which I need hardly say is not practical politics in Mysore and provides adequate credit facilities for long-term loans on the security of real property hereafter, the scheme of compulsory conciliation cannot yield any fruitful results. Besides, such a measure would savour of a piece of socialistic legislation and creates undesirable apprehension in the minds of the money lenders. I hold, therefore, that if the scheme were to be worked on a voluntary basis it would prove successful. The money lender would be amenable to scale down the debt when he would be sure that the Land Mortgage Banks would undertake the responsibility for their liquidation. Moreover, I do not see the justice of calling upon a creditor to scale down the debt which is below 60 per cent of the debtor's assets when the latter could cleanly retain a margin of 40 per cent of his assets even after the clearance of his debt. And when the debt remains above 60 per cent of the assets even after conciliation, the Land Mortgage Bank does not advance any money for the liquidation of such debts. So much so, the operations of the Land Mortgage Banks in giving amelioration to the hard hit debtor is very narrow. I know from personal knowledge that there are many money lenders who are prepared to forego the interest on the debts and even a part of their principal if ready money is paid immediately. Instead of this, to force them to consent to the reduction of their debts and drive them to the tedious course of petitioning the Revenue Authorities for the realisation of instalments in the first instance and in the event of their attempts proving ineffective there then to direct

them to Civil Courts is a poor consolation indeed for the large sacrifices they are called upon to make. Persons who have experience of the psychology of the rural population know full well that the success of private arbitrations that take place in the villages to settle monetary claims popularly known as *panchayeties* is largely due to their working on a voluntary basis and the want of legal sanction attached to the decision arrived thereat. The moment these *panchayeties* are armed with powers to implement their decisions, there would be ample scope for corruption. In conclusion, I am of opinion that the only hope of success of the scheme for conciliation lies in its voluntary basis.

The next point about which I hold a different opinion from the majority is their suggestion that it is not necessary or expedient to recommend any percentage reduction of land revenue assessment since the benefit it confers on the bulk of the agriculturist is problematical while on the other hand the loss it entails to the Government is considerable. We have it on good authority that the incidence of land revenue in India is extremely heavy compared with other taxes and the Land Revenue System is not in consonance with that prevailing in other civilised countries and that is based on many averages like average rainfall, average crop, average prices, etc., with no reference to actualities besides being inelastic. Manifestly, therefore, any percentage reduction of land revenue assessment, whether the result is tangible or otherwise, would have the effect of removing an obvious inequity. However small the relief might be, it is much needed to the already impoverished raiyat and most welcome. At present, the rate of assessment leaves him a very narrow margin for subsistence and sometimes nothing at all. The large landholders also will be relieved to a very great extent and there is no reason why they should be treated on a different basis in regard to this question of reduction of assessment when the majority has recognised in another connection that the present depression has hit them hard. I submit that both on grounds of principle and necessity a reduction of at least 12½ per cent in assessment should immediately be given effect to. If the Government are not prepared to reduce the land revenue assessment as a permanent measure, they might give a 12½ per cent remission, tenable during the period of depression wherever it is necessary; and this concession should be open to such of those who would take advantage of it before a prescribed period of time. This would not only benefit the raiyats but also the Government inasmuch as it facilitates revenue collection.

B. S. PUTTASWAMY.

(4)

AGRICULTURAL INDEBTEDNESS.

I am against the introduction of the Scheme of Debt Conciliation on a compulsory basis as it will not bring any immediate and substantial relief to the raiyat. It brings down the credit of the agriculturist and spoils the harmony existing between the money lender and the raiyat. It is a system which is impracticable and unworkable in a big State like ours.

The question as to what relief the raiyat should get as against the money lender is more complicated as it is necessary to guard the interest of the money lender also. I admit that the raiyats are heavily indebted and their indebtedness is rendered all the more acute by the fall in prices of both land and commodities. It is also true that they are not in a position to repay the debt in cash or kind unless the debtor alienates his land. It is equally true on the other hand that the local money lender being misguided by the temporary boom in prices and depending on the high value of land, invested everything he had on local banking, so much so that in many cases the borrower is in a better position than the money lender, who in his turn is often indebted to a bigger money lender.

It must be said to the credit of the local money lender that he is very moderate in his rate of interest which, on an average, never exceeds 9 to 12 per cent. The rate of interest prevailing in some places is from 3 to 6 per cent. I think the rate of interest charged in our State is much less than what it is in other countries. The local money lender is also considerate according to the seasonal conditions reducing the rate of interest and giving the debtor ample time for the repayment of interest or capital. He never rushes to the court and if he does, it is with the greatest reluctance when he finds that there is no other alternative. The same money lender must come to the rescue of the raiyat when he is in distress. He provides him with money when his land is in danger of being forfeited for arrears of revenue and provides him with grains when faced by starvation.

The exorbitant money lender in the State is he, who comes from other countries with a grim determination to make money. It is he that charges a high rate of interest and never sparing in his dealings. It is against such money dealers that protection is needed most. It is necessary to introduce legislation controlling such money lenders.

I agree entirely that the raiyat requires relief as against the money lender and at the same time I stress the need for maintaining the confidence existing between the money-lender and the raiyat. The raiyat should not lose his credit with the lender and the money-lender should not be allowed to fleece the debtor. It is the law of human nature that there must be debtors and creditors in every country. The Government, however much it may try, cannot make a country entirely debt-free nor is it possible for it to become the banker for the whole country if the local money lenders refuse to advance loans to the raiyats; nor is it possible that a situation will arise when the raiyat can get on without incurring further debts. Borrowing and lending is quite essential and an absolute necessity. The money-lenders are not very particular when they get back their money provided they feel their investment is safe. The loan at this time is opportune and it is the most opportune moment because the raiyat was never more in need of borrowing.

So, while giving relief, we must take care that the harmonious relationship is not affected. We have to safeguard the interest of the money lender in the interest of the raiyat himself. We may ask the creditor to wait till the present conditions materially improve. Let us ask him to make as little profit as it is consistent with the present times. At the same time, it is our duty to make him feel that his investment is safe irrespective of when he gets it back or what return he gets on it. Let him not feel that he is exposed to the danger of losing his money. The Agricultural Relief Act has done more mischief than good. The lender has tightened his slender purse fearing that he would never get back his money and the needy borrower not being able to raise loan at the time of his need recklessly alienates his lands. So, I do not feel that there is any need for introducing Debt Conciliation Scheme as its introduction is attended with many difficulties. It is a measure which is impracticable and widens the already existing gulf caused by the introduction of the Agricultural Relief Act between the creditor and the raiyat. It is better that such conciliation is left to the parties themselves instead of putting pressure on them. This scheme, if introduced, cannot be put into operation immediately as there is no agency which is in a position to pay all the conciliated debts and the amount to be paid after conciliation will be enormous. It is believed that the total indebtedness of the State comes to nearly thirty crores. Granting that the entire debt is conciliated, for twenty crores, who will pay this amount? It is said the Government must issue bonds for the amount conciliated. But I am not sure if we are wise in asking the Government to commit itself to such a policy in the interest of the State. We cannot take Bhavanagar as an example, where it was a question of a few lakhs. In this State, it is a question of crores.

It is also suggested that the Land Mortgage Banks will come to the rescue of the debtors by taking up and paying the conciliated debts. In the first place, the operation of the Land Mortgage Bank must extend throughout the whole State and to achieve this it will take ages. What is wanted is immediate relief to the raiyats throughout the whole State at this time of depression. So, we cannot ask the debtors to wait indefinitely till the whole State comes under the operation of the Land Mortgage Bank. It is not all the debts that these banks are prepared to pay. It is only such debts as are covered by sufficient security and when the assets exceed the liability by at least 40 per cent. As a matter of fact, there is no need to conciliate such debts at all as the debtor is quite capable of discharging his debts in such cases.

As regards bad debts, where the assets and liabilities are equal, the Land Mortgage Banks will not be of any use as they do not come to the rescue of such debtor. In such cases, it is suggested that the debtors should surrender all their assets after which they will be adjudged insolvents. I am not sure by adopting this method we are giving any relief at all to such debtors who are most in need of relief. We are driving them to ruin by depriving him of everything he has, which he might have retained if the Conciliation Board had not interfered. The value of his assets might be low in view of the present depression and the value of land might have gone up if he is given some time. The creditors also would be quite willing to wait till better times come or if it is left to the parties themselves, the creditor would have been more considerate by sparing a part of the debtor's land for his maintenance. The interference of the Debt Conciliation Board will render him a pauper with nothing to depend upon.

In conclusion, I submit that this system of compulsory conciliation is impracticable and does not bring any immediate relief to the raiyat. If any such scheme is to be tried, it must be on a voluntary basis.

REDUCTION OF THE RATE OF INTEREST.

If we want to give immediate and substantial relief to the raiyat, it is by reducing the rate of interest substantially and make it apply to the existing debts, and if possible by giving retrospective effect to it. It is proposed to limit the rate of interest to 10 per cent in case of secured loans and 15 per cent in case of unsecured loans. By adopting this rate,

we are practically retaining the existing rate of interest. It is said that reducing the rate of interest will affect the working of the Banks and the Co-operative Societies. In the first place, I do not see any reason why these banks also should not reduce the rate of interest, especially when the money market is so cheap and when they can get any amount of money with Government guarantee at 3 per cent. Another argument advanced is that indiscriminate lowering of interest may give rise to fraud. No fraud can be committed regarding the existing and prior debts and secondly many will be satisfied to get a small return on their investment provided they get good security.

Let me give a concrete example of the immense relief given to the debtor by the reduction of interest on existing loans. If a debtor has borrowed one thousand rupees at 12 per cent, he will have to pay annually Rs. 120 to the creditor. If you reduce the rate of interest to 6 per cent or even 8 per cent, we will be saving him annually 40 to 60 rupees. This is certainly a much greater relief than a possible reduction of land revenue by 25 per cent. So, I contend that the agriculturist can get substantial relief by the reduction of the rate of interest substantially and make it apply to the existing debts. I propose the following sliding scale:—

<i>Amount of debt</i>	<i>Secured debt</i>	<i>Unsecured debt</i>
Rs.	Per cent	Per cent
500	9	10
500 to 1,000	7	8
1,000 to 2,500	6	7
Above 2,500	5	5

If the rate of interest according to this scale is adopted, I think it will immensely help the raiyats.

REMISSION OF LAND REVENUE.

This is always a vexed question and the question of the remission is always embarrassing both to the Government and the raiyat. On one side, we cannot be blind to the fact that any percentage reduction of land revenue, however small it may be, will involve a loss of good portion of Government revenue and cripple its resources. It must be also admitted that a small reduction of annas two in a rupee does not materially help the small land owner as he has still to pay annas fourteen and his difficulty will not be mitigated much.

On the other side, it is equally true that the raiyats are very hard hit. His condition is pitiable. He is hardly able to realize the cost of cultivation though he toils for the whole year incessantly. The prices of commodities have gone down by more than 50 per cent and added to this is the uncertain seasonal conditions due to scanty rainfall. The raiyat looks forward to the Government to come to his help at this juncture. The raiyat expects that he must be taxed in proportion to the income he derives from his land. From the raiyat's point of view, there is justification for reduction by 50 per cent. Unfortunately, this is impossible under the present financial conditions when the Government itself cannot make both ends meet. These are days of depression both to Government and to the raiyat.

What is wanted at this time is mutual help and co-operation. The raiyat though he is very much hard hit should not make a high demand by asking indiscriminately. The Government should not express mere sympathy. It must be realized that a concession, however small it may be, will be quite welcome by the raiyat. This year especially, owing to precarious rainfall, the raiyat has been completely paralyzed. So, I recommend the following reliefs to be given:—

- (i) To give adequate remission of land revenue in areas where there is total failure of rainfall or the rainfall is so little that it raises a reasonable presumption that the crops are very poor.
- (ii) To remit the land revenue this year by 12½ per cent throughout in view of the general depression prevailing.

Though the small land owner might not be benefited much, the middle class of people who suffer most will get a substantial relief.

J. M. IMAM.

(5)

I have signed the report subject to the following note of dissent :—

LAND REVENUE ASSESSMENT.

It is not without the greatest reluctance that I dissent from the views expressed in the report on the question of land revenue assessment. All the arguments against the reduction of land revenue assessment pressed by some members leave me, however, unconvinced. Even some of the members who urged and still urge the need for a reduction would not unite in making a demand for a substantial reduction on a uniform basis. Under the circumstances, a split is unavoidable. I hope, it will not, on that account, be suspected that I do not participate in the admiration which the ability and the honesty of purpose of the Committee so justly deserve. That admiration should not, however, prevent me from taking a different view from that of others on a question which is of vital moment to the poor taxpayers at present.

The outstanding question for consideration in view of the present condition of agriculturists is the heavy burden of land tax. The level of taxation in Mysore, as elsewhere in India, is admittedly very high, as the system is not based on the capacity of the people that pay it. Nowhere is the burden of the land tax in relation to the produce or the income of the raiyat so heavy, as in Mysore, poor as it admittedly is. Besides, the percentage of indirect taxes on necessaries is far higher than in many other countries. A comparison of the average income *per capita* and the taxes in richer countries like England and America with those in Mysore would readily show that the taxation in Mysore is far beyond the capacity of its poverty-stricken raiyats. To suggest that the level of assessment in Mysore is not too high is to overlook the fact that the burden which has been placed on the raiyat is far greater than he could carry, impoverished as he has been, by the combination of a number of adverse circumstances. It is argued that the number of small land owners being very large according to statistics available, the concession asked for would be inappreciable from the point of view of each raiyat, while Government would be deprived in the aggregate of an appreciable amount of revenue. It is not a question to be treated in that manner. The gains or losses of individual owners or of the Government ought not to be considered. The land in India, in the confirmed opinion of all economists, has to bear too much burden out of proportion to its capacity for production. Mysore is no exception to this rule. What with the high rate of assessment and the inevitability of increase at every revision, and the consequent increase in rents, the actual cultivator has been hit so hard, that all spirit of enterprise has gone out of him, and it is in sheer dread of dire want that agricultural operations are being carried on. Added to this, the low price of agricultural produce, as a result of depression, without any corresponding reduction in assessment has hit the raiyat very hard and borne him down with crushing pressure on all sides. Apart from the material loss resulting from such a condition, the loss on the moral side is still greater and farther reaching. It has produced apathy and engendered a feeling of helplessness. At such a crisis as the present one in the life of the people, any little help rendered to them by an agency which rules over them would engender hope and courage by the assurance of the ready sympathy and assistance which it gives. It is not, therefore, the smallness of the material gain to the individual or the magnitude of the loss to the Government, that should weigh. What is required is co-operation and understanding between the rulers and the ruled in tiding over the difficulties which at present the raiyat feels he is left to suffer alone. Immediate and ungrudging concessions would create fresh hope and trust in the existence of a helping agency near by and inspire confidence and courage in the cultivator. However little it may be, Government should do what it can and should not take into consideration the smallness of the benefit to the people. The raiyats in the villages know what even an anna is worth in these days of diminishing incomes, poor out-turns, dwindling business, growing unemployment and disastrous breakdown of purchasing power. Further, the harshness of the system of recovery of land revenue renders the concession, however small, of tangible value, because the revenue dues have to be paid on pain of forfeiture of all interest in land. It would, therefore, be essential that without any regard to the money value of the benefit, Government should extend its hand of fellowship to the people, and prove that they sympathise with them, feel for them and are equally ready to suffer difficulties with them. We are not asking too much, if we request the Government to extend their full sympathy to the people and help them to tide over the present difficulties by instilling in them hope and courage.

Further, the pressure on land in India is not of recent origin. It is a matter of growth distributed over a long, long period of years, due to causes which are now a matter of history.

It is enough to say that land is the one source of revenue on which all successive governments, from the dawn of history up-to-date, have depended to meet the cost of administration. The pressure was not felt over much in the early days, as life was simple, luxuries were absent and the cost of living was considerably low. As civilization advanced and life became more complex, articles of luxury came to be dumped into the country and, by degrees, all such luxuries became in the course of time indispensable necessities. People increased their expenditure and the Government followed suit. As long, however, as the prices of agricultural produce were high, and the value of land was rising and land owners commanded credit, no actual difficulty was experienced, though the seeds of the present disastrous situation were being sown. Neither the people nor the Government thought of the future, and every one believed that the above conditions would continue indefinitely. But that was impossible, and the crisis came. There are no signs of improvement in the near future. To hope for better times and remain apathetic or idle without making serious efforts to apply proper remedies, would be suicidal. Even rich countries in the west have visualised the dire consequences of apathy and indifference, and are straining every nerve to infuse hope and courage in the people. Almost every one of them has taken special measures to protect its producers in various ways during this period of crisis. For example, the State Governments in the Australian Federation established Farm Relief Boards in 1931 soon after the depression and the extraordinary functions assigned to these Boards to afford relief to the farmers show the extent to which these Governments have gone in helping the agriculturists to carry on their operations in these difficult times. These Boards are empowered to take charge of the farmers' income and distribute it in accordance with a scheme of preferences. One noteworthy feature in this scheme of preferences is that the living allowances of the agriculturists have the first claim on the available income and the rates and taxes due to the Crown take the next place. The reverse is the case in this country even during this period of crisis. The taxes due to Government take precedence over every other claim and no consideration is paid to the needs of the agriculturist, whether he has margin or no margin for his sustenance. Mysore, a comparatively much poorer country when she knows that agriculture is passing through a period of depression unparalleled in history and when she also remembers that 80 per cent of her population directly depend on it for their sustenance cannot remain idle, but should fully realise the immensity of the problem of relieving the acute distress now prevailing throughout her territory.

As regards the Land Revenue policy of Mysore, it is sought to make it appear that it is almost perfect. Whatever might have been the case with the system in the past and however perfect it might have been under the conditions of an earlier period, it is time, the Government realised, that it has become far too antiquated now to be satisfactory or equitable.

The recent rise in the prices of some commodities affords no valid ground for refusing the reduction of land revenue. That rise is only a precursor of a further set-back in the agricultural life of the State, due as it is to the failure of crops for want of rains and the exhaustion of stock from previous harvests. The cumulative effect of the continued slump in the past with all its evil consequences on the financial resources and other contractual obligations of the land owning and cultivating classes has also to be borne in mind.

The other argument regarding the land revenue assessment not being in excess of the conventional one-sixth gross produce is not convincing. That convention has no standing now. The principles governing the land revenue policy of the modern Governments have no comparison to those of the past, as could be seen from the fact that the spirit of liberal outlook that was being shown in the matter of remissions and other concessions to the raiyats in times of need, is thoroughly absent at present. Nor must it be forgotten that the conditions of life then were not so complicated as they are at present, which accounted for the ability of the raiyats to meet the revenue demand. That factor cannot, therefore, be taken as an argument to defend the position of the Government under the present system of their land revenue administration.

Other alternatives which are suggested, such as the reduction on a sliding scale and the liberalisation of remission rules, do not have regard to the collective benefit that would secure something for all, irrespective of the tract or tracts requiring different treatment. Considered from the point of view that the depression and its effect are widespread, the relief in this direction should be universal and sufficiently substantial to be of appreciable benefit to the raiyats who are hard hit by the depression. Further, these alternatives can be of little or no practical benefit, as these would entail palpable difficulties in judging the conditions existing. It is a process of a laborious routine and is bound to prove thoroughly unsuited to the present day situation of the raiyats requiring relief.

It may be that judged from official canons the conditions of State's Finances would not admit of such reduction, but it is by no means a sound argument to adduce especially at this time of great hardship to the raiyats. The unprecedentedly high fall in prices in recent years

has depleted the private purse even more than the public coffers. The reduction no doubt involves an appreciable loss to the Government but to do nothing in the matter at this juncture would involve greater loss. What the Government ought to do is to adjust its expenditure to the decrease in revenue. If Government fails to recognise this fact, the consequences will not be happy for either the Government or the public.

It cannot be that those who opposed the demand for general reduction, were so oblivious of the strongly felt and widespread public opinion in the matter as not to be aware that the ultimate rejection of that demand by the Government would most certainly not make for a happy and contented peasantry in the State. Nor can I believe that the Government, whatever its previous views on this point, would fail to respond to an unanimous recommendation of the Committee for the reduction of the land revenue. It is regrettable that this happy consummation was not possible. All the other reliefs proposed by the majority, for adoption, however much they might be good in themselves, will not be productive of much good, unless this major item of popular grievance, namely, the heavy burden of the land revenue is redressed by a reduction of at least 25 per cent as long as depression lasts. It should, however, be understood, that it is not my intention to belittle the value of those reliefs. My sole aim in dealing at such length with the question of reduction is to respectfully invite the earnest and serious attention of the Government to the real situation in rural areas of the State, with a view to securing a reduction of the land revenue in response to the widespread public opinion in this behalf.

This question of reduction is to the people one of vital importance at this time of chronic depression, and it is only by granting their request for reduction that the Government will have identified themselves with the best interests of the people.

I make a special plea for the reduction of the Bagayat assessment in the Malnad, so as to render Bagayat cultivation there sufficiently lucrative. The general low economic condition of Malnad raiyats, which has been aggravated by the long continuance of the low level of prices of areca and other garden produce makes it imperative that the Government should give the Malnad raiyats, repeated request for a substantial reduction in the rate of assessment on Bagayat lands, their most sympathetic consideration.

REVENUE AND OTHER CONCESSIONS.

IRRIGATION CESS.

Regarding the above, I do not see any justification for the continuance of the cess in the taluks where the same came to be levied separately in 1903, contrary to the express orders of the Government in 1875 abolishing the separate levy, as the cess was held to have been merged in the assessment. In the year 1917 or so, the Government directed that no separate levy should be made in respect of taluks to be resettled thereafter but it is unfortunate, the separate levy is still being continued in the taluks in which the resettlement had already taken place. It would be found, from a reference to the proceedings of the Representative Assembly of 1924 and 1925, that the Government admitted the injustice of the separate levy of the cess in the taluks settled between 1875 and 1903 and which were resettled after 1903 and conceded that the cess was a double levy as the increase in the assessment was calculated on the basis of the old assessment, which included both the cess and assessment. The Government Order subsequently passed ignored the just claims of the people suffering from this admittedly double levy. I do not see why, in the face of such incontrovertible and strong arguments in favour of abolition of the Cess, the Committee should hesitate to move the Government for at least a temporary remission, if not the abolition, of the cess, as a measure of relief during this period of depression. I would earnestly urge the abolition of the cess, as that would go a great way to relieve the poor tax-payers at this juncture.

AGRICULTURAL INDEBTEDNESS.

I would insist on compulsory conciliation for redemption of debt with no discrimination, without which no effective redemption of debt is possible. I would also insist that in order to make the whole scheme of debt redemption a success, the Government should provide for some effective means of paying off the compounded debt. I am strongly of opinion that no amount of indirect method of assistance by Government would meet the situation. Nor are the Land Mortgage Banks and the Co-operative Societies the only agencies that can effectively take up this debt-clearance work. So heavy is the debt and so urgent is the question of its redemption, that, I think, these institutions may not be able to tackle it single-handed and direct assistance by the State, as in Bhavanagar, is essential in order to mitigate this growing evil. The interests of the State are so materially involved in the matter of the well-being of the most numerous and the most helpless classes of the tax-paying population, that the solution

of the growing evil of their debt cannot be delayed any longer. The State help is needed for the very cogent reason that the initiative of the State and its direct action is necessary to inspire confidence. No other organisation in the country has such a diversified, intelligent and widely diffused agency at its disposal.

The Government need not expend its funds. The funds would be forthcoming, if it only undertakes to organise the agency and sets it to work. All that the Government will have to do is to organise a Loan-Lending Bureau, empower them to receive deposits at fixed rates and lend them at slightly higher rates of interest to the borrowers, on the security of lands, the excess rate providing for a gradual amortization of the debt in a definite period, as also working expenses.

Government should also encourage Land Mortgage Banks to spread their operations throughout the State without any delay (1) by large subsidies, at far cheaper rates of interest, in addition to guaranteeing of interest, as now, on debentures raised by them, and (2) by exempting their business from all stamp duties and other charges.

I am not in favour of fixing any limit as to the aggregate of the debts in the case of which conciliation may be effected. If, however, it is not possible to do away with restriction of this kind, the maximum limit ought to be raised to at least Rs 20,000 so as to cover a large majority of debtors whose debts exceed the proposed maximum limit and who are, by reason of their indebtedness in a more helpless position than the debtors proposed to be brought within the scope of the proposed provisions as to conciliation. In this way, the relief should be extended to a wider circle so as to allow a very large number of middle class landed proprietors to recover their credit and solvency. Besides, the prescribing of the limit is bound to give rise to unsavoury disputes and lead to a good deal of perjury in the initial stages of court proceedings to the prejudice of even those whose cases may fall on the border of the prescribed limit.

HOSAKOPPA KRISHNA RAO.

APPENDIX I.

Note of the Director of Agriculture in Mysore.

With reference to your R. O. C. 308—34-35, dated 7th August 1934, I have the honour to furnish below a statement showing the approximate cost of cultivation of certain important crops grown in the State, the average yield per acre and the value of the produce calculated at current rates. The cost of cultivation figures are averaged from a very large number furnished by the District Staff of the Department and may be taken to be fairly applicable to the generality of raiyats. The figures given for yields are, however, quite the reverse; they are subject to very large variations due to the seasons, soils, manuring, irrigation facilities, incidence of pests and diseases and the quality of the cultivation itself. Many of these factors often bring about either a doubling or halving of the yields given in the table, according as they act on the favourable or unfavourable side. In fact, for the improvement of the agriculture of the State one has to look for strenuous endeavours in the direction of strengthening the favourable factors and the removal or mitigation of the unfavourable ones. Improvement in the irrigation facilities, the growing of better varieties, the use of better implements, more adequate manuring, remedial measures for diseases, in fact all the activities now coming within the work of the Agricultural Department have to be developed, expanded and made to cover the State as widely as possible. In the course moreover, of certain departmental studies into the cost of cultivation incurred by our raiyats, it has also been strikingly brought out, that a great deal of improvement is possible and urgently called for in the business of farming itself, which will bring about considerable reduction in the cost. It will be necessary to interest raiyats in this new line of activities which I consider an important matter. If by proper measures we can see that crop yields are assured and kept up at a fairly high level, I venture to think that the agriculturist's troubles will right themselves automatically and our endeavours should therefore be mainly directed towards this end. The figures relating to yields given in the table being thus subject to considerable variation, the figures of the returns per acre are likewise not such as will be generally applicable; they are in addition influenced by the fluctuation to which prices are always subject; nevertheless, it cannot be doubted that in the case of the grain crops, ragi and jola and in the case of the commercial crop groundnut, all three of which are very important crops, the value of the produce at the present level of prices hardly covers the cost of cultivation. In the case of the other crops also, a study of the fluctuation in price from month to month, conducted by the Department, reveals that in certain periods prices have been very low indeed, which must have affected raiyats very badly who had to sell their produce at such times. The effect of the low prices is, however, not so severe as it might be, because they have at the same time tended to reduce the cost of living and have also meant considerable reduction in the price of the articles which the raiyat has ordinarily to buy. In the absence of correct data, it will not be possible to assess the value of the mitigating circumstances to see to what extent there has been any counter balancing. Whatever it may be, it does not in anyway affect the hardship of the raiyat in the cases where payments have to be made in money, such as debt repayments, interest charges, taxes and the expenses of education, marriage and other celebrations, and the increased amenities of life that have gradually come in. Many of the factors tending to keep down production have been acting through a series of years, the period of high prices notwithstanding, and the profits of farming have seldom admitted of anything but a moderate scale of living. Unless production is increased, assured and agriculture improved, these factors will remain with us, and operate to neutralise and nullify any measures of financial relief we may devise and adopt. They may be obscured for the time being and may not be felt, but they will be acting all the time and culminate again in a crisis, requiring a repetition of the same kind of relief. We therefore come again to the root of the problem, *vis.*, the improvement of agriculture itself through well recognised methods. All other measures will only afford temporary relief, if this root cause is not tackled.

I may, in passing, invite attention to the proportion which the ordinary assessment bears to the total cost of production. Taking the cases of the different crops mentioned, the proportion is as below :—

Ragi	... 3 per cent to 11 per cent.	Cotton	... 2 per cent to 12 per cent.
Jola	... 2 do to 12 per cent.	Groundnut	... 1 do to 6 per cent.
Paddy	... 12 do to 16 per cent.	Cocoanut	... 20 do
Sugarcane	... 2 do to 4 per cent.	Areca	... 8 do

I do not at all minimise the importance of financial relief; for one thing, it will free the raiyat from the millstone round his neck and enable him to devote his attention to the improvement of his land and make use of such measures as we may sanction or recommend for the betterment of agriculture. Certainly, Government has not been slow to act in this matter and the list of recent measures for financial relief to agriculturists in the State is

certainly one with which one may feel gratified; other measures will, no doubt, be evolved as the result of the present discussions. Measures towards price stabilisation or enhancement, of the kind now adopted in the United States of America under the National Recovery Act and the Agricultural Adjustment Act not being possible with us for obvious reasons; others, if any, which will have the effect of increasing the cash return to the raiyat to some extent at least will have to be gone into. The most important of such measures relates to the marketing side of agriculture. I have already referred to the sale of produce by the raiyats in a glutted market when prices are low. To enable him to avoid this need, and to store his produce so as to release it for sale when prices are favourable will be a desirable step to take. To what extent such holding up will be possible or even desirable considering the deterioration in weight and quality likely in some cases, and what practical methods we may adopt such as the starting of Co-operative Sale Societies, the construction of storage go-downs, financing of stored produce and so on, will all have to be examined. Better markets, and preparation for markets by grading and cleaning and control and regularising of marketing practices,—all these will have to be gone into, so that the produce may fetch as big a price as possible and the producer obtain as big a share of it as possible. The starting of a marketing study with a view to organizing a regular Marketing Board appears to be an important measure we can recommend.

Another financial measure which will have to be considered is the grant of Takavi Loans for agricultural improvement and especially for well sinking purpose. At present, the amount spent is, I venture to think very inadequate, at least four times that amount will have to be spent on this most important work, and I firmly believe that no better investment of Government funds can be thought of. At the same time, it will be advisable to simplify the procedure and speed up the sanction of individual loans, and also to reduce the interest charged. This will largely mitigate the present frequent failure of crops and will also enable raiyats to raise valuable commercial crops and increase their money return. The main objective should be, as I have already emphasised, the improvement of the agriculture of the State through well recognised methods and the voting of very much larger funds than is at present done for this purpose. I shall furnish figures for yields, cost of cultivation, etc., for the other crops like coffee, cardamom and mulberry in time for the next meeting, as these figures have not yet been received from my District Officers. The revision of the standard out-turns, talukwar, is a very elaborate work and will take some considerable time.

Supplemental Note by the Director of Agriculture.

In my note submitted already, I have stated that such measures of financial relief as we may decide upon, *viz.*, the writing down of debts, reduction of interest and the grant of loans at easier rates of interest and on better terms of repayment through Land Mortgage and other Banks will not secure the permanent betterment of the agriculturist, as long as the agricultural industry itself is not improved. This aspect of the problem is now generally accepted on all hands almost axiomatically. Side by side with these measures, therefore, and as an integral part of them should be set on foot schemes for the improvement of agriculture. The Department of Agriculture and the Board of Agriculture under the old Economic Conference have considered a large number of measures calculated to bring about such improvement. On the strictly agricultural side are those that relate to the supply of better implements, the introduction of new crops and high yielding varieties, the popularisation and supply of artificial fertilisers and manures and the control of diseases and, on the animal husbandry side the improvement of the sheep industry, the supply of breeding bulls, larger production of high grade Mysore cattle and the control of epidemic and other diseases. Various other measures have been fully considered by important *Ad-hoc* Committees appointed to look into the recommendations of the Royal Commission on Agriculture and Dr. Coleman's note thereon. The Department of Agriculture has done substantial work on every one of the lines indicated above and it is now necessary to expand the Department in such a manner that there will be a representative of the Department in every hobli of the State. A scheme drawn up some time back contemplated the strengthening of the scientific sections and the appointment of an Assistant Director for each district and an Agricultural Inspector for each taluk and a fieldman for each hobli, so that intensive work may be made possible and prompt measures taken when necessary as in the case of remedial measures for crop pests and diseases. It was also thought that such an organisation would attend to all matters of agricultural importance which though not strictly technical are still of great importance, such as, marketing surveys and improvements, co-operative agricultural organisations, advice regarding irrigation wells and pumps, etc. I am of opinion that the expansion of the Department in the above manner should be strongly recommended by the Committee. I am painfully aware, on the other hand, of the frequent occasions on which the grants are cut down in spite of my strong representations and of the set-back which such a cut naturally leads to. Far from such things happening, I think that a liberal budget for the Department of Agriculture should be a prominent feature of our State, and if this can be the outcome of our recommendations, we should have done much good.

Among extra departmental activities which are essential for agricultural improvement, I should put the matter of improved irrigation facilities in the foremost place. The opening of large irrigation works and the improvement of tanks, large and small, are always on the programme of the Government. But I would here draw attention to the need for well irrigation. At present outside of the channel areas crop raising is always precarious and our first endeavour should be to lift it out of this uncertainty and make it possible for a large number of agriculturists to raise an assured crop on some part of their holding, however small it may be. Well irrigation alone will do this. The introduction of rural electric supply which is expected to expand from year to year, is a helpful new feature in regard to well irrigation which deserves to be exploited in full. Depths greater than will be possible with bullocks can be thought of with the additional advantage of a larger supply and the serving of tracts of country which may not otherwise be possible. A larger permanent and profitable outlet will be provided for the electric power now at our disposal. A large grant of Takavi for well-sinking should be available, advanced either direct or through Co-operative Societies. The digging of new wells, deepening of existing wells, the digging of subsidiary wells under tanks, the furnishing of technical advice according to best known methods in regard to well sinking, prevention of caving in, bore holes and even the execution of well work should all be made the function of a special organisation which should be created. A ten-year programme should be drawn up and pursued steadfastly until we have protected a large section of the country especially in the central and eastern taluks of the State.

APPENDIX II.

QUESTIONNAIRE.

(Please specify the area to which your replies relate.)

- I. What are the principal food grains grown in the area? In what proportion are they consumed locally or exported to other places?

To what extent are food grains imported into the area in normal years?

Give the wholesale and retail prices of the several food grains referred to above for each of the years 1900, 1914, 1919, 1929, 1931, 1932, 1933 and 1934.

What are the principal cash crops grown in the area? What proportion of the total acreage under cultivation do they constitute?

Give the harvest prices of the principal cash crops during each of the years 1900, 1914, 1919, 1929, 1931, 1932, 1933 and 1934.

Are stocks of grain more or less than in normal years?
- II. How far has the recent slump in prices affected the money income of the owners of:—
 - (a) Large holdings (over 50 acres)
 - (b) Medium holdings (10 to 50 acres)
 - (c) Small holdings (less than 10 acres)

and of agricultural labourers?
- III. Has the change in prices affected the normal volume of export and import of trade in agricultural produce in the area? If so, in what manner and to what extent?
- IV. What is the present average value per acre, of dry, wet and garden lands in the area as compared with their value in 1929?
- V. Have the earnings of raiyats from subsidiary sources, (e.g., sale of milk, grass, hiring of carts, and wages for off-season labour) been affected, as a result of the economic depression?

Is there evidence of any abnormal tendency to pawn jewels in order to meet cash obligations?
- VI. Describe the present methods of marketing the principal crops in your District and facilities that exist therefor.

Do the present methods ensure a fair deal between the grower and the purchaser? If not, what suggestions have you to make on this point?

VII. Describe the present system by which the agriculturists in your District obtain finance.

What are the rates of interest charged on the several kinds of loans? Are any unfair or onerous conditions attached to these loans?

Do you consider that the existing system of Takavi and Land Improvement loans is meeting the requirements of the raiyats at present? If not, what changes would you suggest in respect of the issue of loans, speedy disposal of applications, etc.?

VIII. Can you give an estimate (based on personal knowledge or enquiry) about the extent and degree of indebtedness of:—

- (a) large landholders,
- (b) cultivating proprietors,
- (c) tenants.

What is the average debt per head of the agricultural population and what proportion does it bear to the average value of land and to the land revenue assessment.

Have any instances come to your notice of the transfers of land on a large scale from the agricultural to the non-agricultural classes on account of the present depression and the indebtedness of the raiyats?

IX. What is your view about the desirability and possibility of introducing a scheme for the conciliation of the standing debts of the agriculturists?

If you are in favour of such a scheme, should conciliation be made optional or compulsory and what, in your opinion, would be the best agency for the purpose?

What arrangements and facilities would you suggest for the payment of the conciliated debt?

X. (i) Do you consider the rates charged on loans to agriculturists to be generally reasonable or excessive?

(ii) Is it desirable in view of the present depression, to limit by legislation the rate of interest on secured and unsecured loans? And if so, what limits would you suggest?

(iii) Should the reduced rates be made applicable to past transactions? If so, from what date should they be so made applicable? State your reasons.

(iv) Should such reduction apply to all debtors generally or to agriculturists and land owning classes only? In the latter case, define whom you would include in this category and state whether the resources of the agriculturists for getting the necessary finance for agricultural operations, etc., would be affected.

XI. A statement of the several revenue concessions sanctioned by Government in view of the agricultural depression is appended.

In what directions, if any, do these concessions need to be supplemented? Please give reasons.

Have you any suggestions to make in regard to the mode of collecting land revenue, including miscellaneous revenue demands, e.g., cesses, village panchayet taxes.

XII. It is stated that legislation regarding usurious loans has been a dead letter in some provinces. Can you state to what extent the Regulation in Mysore is being availed of? Have you any suggestions to make for greater use being made of it?

XIII. What do you think of the effect of the working of the Agriculturists' Relief Regulation on the facilities for obtaining credit and to what extent has it curtailed such facilities? Do you think the Regulation requires any modification in view of the existing conditions?

APPENDIX TO THE QUESTIONNAIRE.

STATEMENT OF THE SEVERAL REVENUE CONCESSIONS SANCTIONED BY GOVERNMENT IN VIEW OF THE AGRICULTURAL DEPRESSION.

1. *Remission of Land Revenue.*—(a) The application of the rules of remission on wet lands has been liberalised, so as to make the rules applicable even in cases in which there was failure of crop during a single year (and not in three successive years).

(b) Grant of special remissions outside the ordinary rules in respect of tracts where there was widespread failure of crops, owing to excessive rains or other special causes.

2. *Moderation of Miscellaneous Demands.*—(a) Collection of Record of Rights fees has been made to commence one year after the completion of the preliminary record and option has been allowed to pay the fees in not more than three equal yearly instalments, subject to a minimum of Rs. 2 per instalment.

(b) Deputy Commissioners have been permitted to allow at their discretion suspension of payment of the instalment due on account of loans during the year 1933-34, and in special cases to suspend the repayment of one annual instalment in arrear, if such repayment is found to be unduly burdensome, no additional interest being charged by reason of these suspensions.

(c) Similar discretion was vested in the Deputy Commissioners in the matter of recovery of contribution for tank restoration and also of tank maintenance advances.

(d) Rates of ordinary and penal interest on Land Improvement and Takavi Loans have been temporarily reduced from $6\frac{1}{2}$ and 8 per cent to $5\frac{1}{2}$ and $6\frac{1}{2}$ per cent respectively for one year from 1st January 1934.

III. *Relaxation of Coercive Processes.*—(a) Deputy Commissioners were permitted to give time to persons who had to make large payments of revenue.

(b) Forfeiture of lands for arrears of land revenue was ordered to be confined to those survey numbers on which the arrears were known to have accrued.

(c) Restoration of component survey numbers on which assessment was paid was permitted, although there were outstandings on the remaining survey numbers in the khate.

(d) It was ordered that no penalty or upset price need be levied, while restoring khates on payment of arrears and of costs.

(e) All notice and istihar fees were remitted after the arrears were paid before the official year, whether the arrears related to the year 1933-34 or previous years and whether the payment was made before or after the sale.

(f) Applications for restoration of khate were exempted from payment of stamp duty.

(g) Notice fee was reduced to four annas in all cases.

(h) Deputy Commissioners were directed to make a liberal use of the powers vested in them under Rule 35 of the Land Revenue Rules, as regards the remission of arrears without recourse to further process by distraint of movables or by proceeding against the other properties of the defaulter in cases where the holding which had been forfeited for default in payment of land revenue due thereon was not sold, or the sale proceeds thereof were not sufficient to meet the arrears.

APPENDIX III.

Statement showing the Land Revenue and other demands in the several Taluks of the Mysore State.

Taluk	L. R. Demand	Cesses	Total	Other demands						Percentage of other demands to Total Demand (Col. 11 to Cols. 4 + 11)			
				Tank Restora- tion	Tank Main- tenance	R. R. Fees	L. I. Loan	Takavi Loan	V. P. Taxes		Total		
1	2	3	4	5	6	7	8	9	10	11	12		
KOLAR DISTRICT.													
Kolar	1,89,921	27,604	2,17,525	28,092	28,596	47,778	8,182	8,510	15,116	1,24,164	86.8		
Bowringpet	1,58,070	22,792	1,75,802	15,802	9,701	...	8,105	5,261	15,209	61,682	22.6		
Chintamani	1,63,042	25,201	1,88,243	4,694	4,444	146	2,691	8,043	18,149	83,107	14.9		
Srinivasapur	1,56,259	23,765	1,80,024	18,621	18,935	...	7,510	4,087	12,914	58,417	23.8		
Mulbagal	1,74,989	25,312	2,00,301	4,955	9,767	...	2,878	5,810	11,823	85,253	14.9		
Sidlaghatta	1,33,041	18,476	1,51,517	4,582	4,285	40,816	3,786	2,628	9,604	65,598	30.2		
Chikballapur	97,119	18,898	1,10,517	8,427	5,014	86,944	2,485	4,058	14,047	70,975	85.5		
Bagepalli	1,59,559	15,095	1,74,754	4,218	508	46,698	5,570	8,865	17,004	77,376	80.6		
Goribidnur	2,00,546	89,087	2,84,188	7,950	8,161	78,268	7,536	7,541	22,514	1,26,990	85.1		
Mslur	1,38,688	20,988	1,58,726	12,760	2,898	...	2,888	4,501	26,108	48,658	23.4		
Gudibanda	40,180	6,988	47,068	4,596	288	13,908	1,891	8,920	8,415	27,968	87.2		
KADUR DISTRICT.													
Chikmagalur	2,17,889	24,566	2,42,205	8,298	6,208	...	5,950	9,784	15,400	45,540	15.8		
Kadur	2,08,277	81,758	2,40,080	8,556	4,740	16,287	2,371	1,317	18,698	51,854	17.7		
Narsimharajapur	59,487	10,999	70,486	8,955	122	...	898	1,907	8,918	16,430	17.8		
Koppa	1,14,858	27,569	1,42,422	2,100	...	4,040	5,257	2,763	6,576	20,736	12.7		
Mudgere	1,54,028	28,544	1,80,672	...	...	...	5,977	5,097	12,008	28,022	11.3
Tarikere	1,46,476	28,845	1,69,321	4,867	12,222	4,688	640	1,266	21,414	44,547	21.8		
BANGALORE DISTRICT.													
Bangalore	1,89,698	29,165	2,18,858	1,715	24,830	19,320	6,894	2,097	19,567	78,298	25.0		
Kankanhalli	1,80,532	14,949	1,45,481	780	...	...	1,547	8,780	21,847	27,954	16.1
Magadi	1,52,268	20,128	1,72,396	2,794	...	59,611	899	745	18,982	77,904	31.1		
Channarayana	1,07,432	13,030	1,20,462	6,156	11,684	82,620	2,771	2,300	14,952	1,20,583	50.0		
Olosspet	88,849	8,751	97,600	2,588	1,166	41,592	2,847	2,072	9,962	59,707	37.9		
Dodballapur	1,92,178	28,471	2,15,644	2,918	20,074	69,169	8,811	8,971	16,417	1,15,848	34.8		
Nelurangala	1,48,846	18,864	1,67,700	7,660	9,640	59,498	2,557	1,852	14,560	95,762	37.1		
Hoskote	1,98,405	23,182	2,21,587	5,414	14,074	...	8,575	2,388	12,721	88,067	14.6		
Devanhalli	1,46,511	18,499	1,64,010	...	7,440	...	1,204	779	8,741	18,164	9.9		
Anekal	1,68,480	17,456	1,75,946	2,185	2,586	...	1,128	1,480	21,864	29,138	14.2		
SHIMOGA DISTRICT.													
Shimoga	1,18,785	80,849	1,49,584	8,750	190	764	5,898	6,288	17,337	84,097	18.5		
Tirthahalli	1,91,767	86,995	2,28,762	87	...	...	2,328	2,290	9,020	14,205	5.8
Sorab	2,88,631	89,929	2,78,560	8,502	7,770	2,688	1,567	6,894	18,686	41,097	12.8		
Kumri	42,970	7,657	50,627	4,208	2,459	...	1,039	2,888	8,999	14,588	22.9		
Channarayana	1,70,641	23,180	1,98,821	6,094	4,025	57,135	618	1,138	23,811	92,816	32.8		
Shikarpur	1,81,642	29,492	2,11,134	1,100	185	4,128	1,422	8,085	8,936	93,751	10.1		
Sagar	1,75,819	81,965	2,06,884	1,000	467	1,800	2,053	1,256	12,011	19,107	8.4		
				Contribution 1,000		9,875	294	25,846	147	8,788	14,348	47,278	22.2
Honnali	1,84,678	18,944	1,51,617	1,928	10,488	1,217	805	4,854	18,242	11.8	
Nagar	1,21,792	21,278	1,43,665	

Statement showing the Land Revenue and other Demands in the Several Taluks of the Mysore State—contd.

Taluk	L. R. Demand	Cesses	Total	Other demands						Percentage of other demands to Total Demand (of col. to cols. 4 and 11)	
				Tank Restora-tion	Tank Maintenan-ance	R. R. Fees	L. I. Loan	Takavi Loan	V. P. Taxes		Total
1	2	3	4	5	6	7	8	9	10	11	12
CHITALDRUG DISTRICT.											
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Chitaldrug	1,39,864	20,563	1,60,427	2,066	3,993	27,531	3,116	1,517	19,069	57,409	35.8
Challakere	1,37,508	24,795	1,62,303	7,163	1,068	14,929	8,323	2,673	19,148	48,919	30.1
Hiriyur	1,10,290	18,726	1,29,016	1,339	1,295	40,862	1,962	2,682	13,581	66,266	51.3
			Contribution	4,625							
Holkere	1,16,428	15,612	1,32,040	211	1,972	6,676	517	619	18,548	30,538	23.1
Davangere	1,33,286	18,481	1,51,717	41	1,733	6,568	380	885	20,663	29,770	19.6
Molakalmuru	60,662	10,169	70,831	...	3,969	4,968	842	1,870	10,647	32,216	45.6
Jagalur	78,782	10,457	89,239	1,250	2,499	...	609	925	12,351	17,684	19.7
Hosdurga	67,788	18,768	1,01,501	...	15,091	57,309	552	1,608	23,329	97,789	96.3
Haribar	68,748	11,540	80,288	...	...	899	146	293	14,187	14,984	18.6
TUMKUR DISTRICT.											
Tumkur	1,98,078	81,578	2,79,656	4,546	14,182	40,006	5,494	8,572	90,021	1,02,921	36.8
Kunigal	1,47,046	23,376	1,70,422	46	2,624	1,88,493	7,287	2,497	20,023	1,70,970	100.0
Sira	1,98,758	26,290	2,25,048	2,368	1,181	...	18,981	7,616	22,148	52,248	23.2
Tiptur	1,88,996	26,622	2,15,618	4,152	3,902	29,748	4,188	888	20,408	63,286	29.2
Madhugiri	1,56,735	28,290	1,85,025	8,324	7,883	...	44,852	25,175	33,903	1,04,112	56.2
Chikmaikanhalli	1,27,695	20,842	1,48,537	1,365	6,812	...	2,972	1,231	17,450	23,380	15.7
Gubbi	2,24,996	29,186	2,54,182	3,087	14,847	71,288	14,552	11,387	29,318	1,44,979	57.0
Pavagada	1,00,122	15,680	1,15,802	4,300	14,400	...	23,149	12,337	17,977	72,163	62.3
Turuvekere	98,952	11,981	1,08,933	3,045	2,584	51,389	3,939	1,221	11,960	74,068	67.9
Konatasera	84,990	18,399	1,03,389	1,933	6,976	...	7,255	5,569	15,685	37,617	36.4
HASSAN DISTRICT.											
Hassan	2,39,019	26,664	2,65,683	16,966	1,258	...	3,570	904	17,926	40,444	15.3
Belur	1,78,118	29,075	2,07,193	...	4,691	...	3,197	1,822	18,690	26,503	12.8
Manjarabad	1,86,276	25,431	2,11,707	2,464	...	14,281	9,246	1,763	11,292	39,046	18.4
Arsikere	1,99,802	25,938	2,25,740	1,811	6,282	...	2,140	2,890	24,296	37,116	16.6
Holenarasipur	1,06,860	11,997	1,18,857	2,443	809	98,792	2,244	952	9,174	1,14,517	96.3
			Contribution	...	...	20,440	1,696	300	6,084	33,650	37.2
Alur	78,505	8,562	87,067	4,200	...	...	...	...	...	...	...
Channarayana	2,48,468	25,936	2,74,404	3,945	2,481	2,04,817	1,224	424	18,100	2,80,991	102.3
Arkalgud	1,49,879	16,690	1,66,569	...	...	1,10,682	1,457	990	18,100	1,26,369	75.9
MYSORE DISTRICT.											
Gundlupet	1,05,276	13,212	1,18,488	15,972	78	...	3,304	2,050	20,948	42,852	36.2
Krishnarajpete	2,12,086	31,584	2,43,670	28,281	6,076	...	2,731	667	24,500	57,255	23.5
Mysore	1,84,666	19,435	2,04,101	12,445	331	80,232	5,405	1,015	16,040	85,468	41.8
Meddur	1,24,636	16,688	1,41,324	5,133	...	...	...	...	...	...	...
	51,178	5,603	56,781	86,429	2,635	...	...	...	20,000	1,17,183	206.4
Mandya	1,02,809	18,555	1,21,364	1,639	...	...	...	...	18,120	2,29,327	189.0
	*Irwin Canal	Contribution	...	*1,88,312	15,893	...	8,179	1,684	...	...	...

Statement showing the Land Revenue and other demands in the several Taluks of the Mysore State—concl'd.

District	L. R. Demand	Cesses	Total	Other Demands							Percentage of other demands to total demand (of col. 11 to cols. 4 and 11)
				Tank Restoration	Tank Maintenance	R. R. Fees	L. I. Loan	Takavi Loan	V. P. Taxes	Total	
1	2	3	4	5	6	7	8	9	10	11	12
MYSORE DISTRICT—concl'd.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Seringsapatam ...	2,51,989	86,464	2,88,488	1,610	906	65,500	688	281	17,200	1,11,661	27.9
Malvalli ...	90,867	18,818	1,04,680	828	1,947	...	15,074	1,101	15,466	27,928	20.7
Chamarajnagar [†] ...	1,69,016	28,012	1,97,028	1,471	12,784	91,267	10,054	9,898	28,858	1,60,561	44.9
Heggaddevankote ...	75,055	9,740	84,795	620	1,115	...	6,772	794	9,716	19,017	18.3
Periyapatna ...	61,723	8,469	70,192	...	1,476	...	746	121	8,642	10,885	18.4
Nanjangud ...	2,22,911	81,794	2,54,705	8,922	487	87,745	6,138	2,017	24,435	2,45,394	49.0
Nagamangala ...	1,85,198	18,601	1,58,794	4,048	1,357	2,10,442	2,528	2,239	18,483	2,39,045	60.8
Krishnarajnagar (Yedatore) ...	3,14,704	58,390	8,72,119	+296	...	...	4,815	...	22,959	80,903	17.8
Hunsur ...	1,19,265	18,044	1,82,809	118,295	1,856	...	3,364	948	16,967	85,830	21.3
T.-Narsipur ...	2,03,603	28,654	2,37,257	1,99,229	1,524	97,179	11,852	29,533	17,609	8,56,926	60.0

* Acreage Contribution

† Tank Restoration

‡ Contribution

Statement showing the Land Revenue and other demands in the several Districts of the Mysore State.

District	L. R. Demand	Cesses	Total	Other Demands							Percentage of other demands to total demand (of col. 11 to cols. 4 and 11)
				Tank Restoration	Tank Maintenance	R. R. Fees	L. I. Loan	Takavi Loan	V. P. Taxes	Total	
1	2	3	4	5	6	7	8	9	10	11	12
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	
Bangalore ...	15,12,198	1,87,495	16,99,693	32,095	90,984	3,81,998	26,101	21,299	1,54,603	6,65,020	27.6
Kolar ...	16,06,414	2,32,246	18,98,660	1,04,026	87,565	2,59,578	48,972	52,739	1,65,203	7,18,063	28.1
Tumkur ...	15,19,358	2,25,794	17,45,147	23,135	74,846	3,30,874	1,82,669	76,493	2,08,593	8,51,610	32.7
Mysore ...	23,83,430	8,41,598	27,25,428	7,68,803	48,365	5,35,365	65,469	51,820	2,79,293	17,99,185	39.7
Hasan ...	18,85,927	1,70,288	15,56,165	82,152	15,521	4,49,012	24,436	9,885	1,18,506	6,49,512	29.4
Shimoga ...	18,76,470	2,37,584	16,14,054	25,519	15,360	1,02,294	16,784	82,822	1,12,402	3,05,181	15.9
Kadur ...	8,99,760	1,45,376	10,45,136	27,211	23,287	25,847	24,786	22,054	77,944	2,01,129	16.1
Chitaldrug ...	9,43,806	1,44,056	1,0,87,862	16,615	81,625	1,61,162	11,467	12,504	1,51,423	3,84,796	26.1
Total ...	1,16,26,658	1,6,84,737	1,88,11,645	10,34,556	3,87,659	22,46,130	8,50,754	2,79,506	12,66,967	55,65,466	29.4

APPENDIX IV.

Statement showing the area (in acres) under occupation and crops in the State :—

Year	Area under occupation	Area cropped
1905-06	72,57,499	57,73,717
1911-12	75,45,519	60,47,453
1916-17	78,43,601	65,25,850
1921-22	79,14,982	60,72,140
1926-27	80,22,536	64,28,714
1927-28	80,42,673	64,57,389
1928-29	80,78,126	65,30,420
1929-30	81,21,045	67,11,450
1930-31	51,16,062	66,38,685
1931-32	79,75,639	65,75,488
1932-33	79,47,016	66,14,171
1933-34	79,31,629	65,64,472

X (95) : 6 : (223) . N366

56



THE
COCHIN GOVERNMENT GAZETTE

SUPPLEMENT TO PART I

PUBLISHED BY AUTHORITY

VOL. LXX.] Ernakulam, Saturday, 10th Karkadagam 1111 (25th July 1936) [No. 45

COCHIN LEGISLATIVE COUNCIL

NOTIFICATION.

The Select Committee Report on the Cochin Debt Conciliation Bill together with the Bill as amended by the Committee and a Minute of dissent thereon are published under S. O. No. 35 of the Cochin Legislative Council.

The Huzur Secretariat,
Law and Justice Department,
17th July 1936.
2nd Karkadagam 1111.

B. V. KRISHNANKUTTY MENON,

Secretary to the Council.

**SELECT COMMITTEE REPORT ON THE COCHIN
DEBT CONCILIATION BILL.**

We, the members of the Select Committee appointed to consider the Cochin Debt Conciliation Bill, have the honour to submit the following report:—

Three meetings of the Committee were held on 13th Meenam 1111, 24th Edavam 1111 and 30th Edavam 1111. It was resolved to modify the Bill on the lines of the Bill passed by the Madras Legislative Council, subject to certain modifications.

The Bill was published in the issue of the Cochin Government Gazette, dated 17th Kumbham 1111.

Since the Bill has undergone material alterations at the hands of the Committee, we think that it requires republication.

A copy of the Bill as modified by the Select Committee is herewith appended.

We have the honour to remain,

Sir,

Your most obedient servants,

A. SANKARA MENON,

Chairman.

(Sd.) P. RAMAN MENON
 „ P. KUMARAN EZHUTHASSAN
 „ T. K. NAYAR
 „ A. V. MOOTHEDAN
 „ K. KUNHI RAMA MENON
 „ K. M. IBRAHIM
 (Subject to a separate Minute)
 „ C. S. VISWANATHA AYYAR
 (Subject to a separate Minute of dissent and amendments)
 „ THOMAS MANJURAN

**A REGULATION TO MAKE PROVISION FOR THE
 SETTING UP OF DEBT CONCILIATION BOARDS
 TO RELIEVE AGRICULTURISTS FROM
 INDEBTEDNESS.**

Whereas it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors; It is hereby enacted as follows:—

1. (1) This Regulation may be called the Cochin Debt Conciliation
 Short title, extent Regulation, of 1112.
 and commencement.

(2) It extends to the whole of Cochin.

(3) It shall come into force on such date as the Government may, by notification, appoint.

2. In this Regulation, unless there is anything repugnant in the subject or context—

(a) 'landlord' means a person immediately under whom a tenant holds;

(b) 'tenant' with its grammatical variations and cognate expressions means and includes a person, who as lessee, sub-lessee, mortgagee, or sub-mortgagee, or in good faith believing himself to be lessee, sub-lessee, mortgagee or sub-mortgagee of land, is in possession thereof or who with the intention of paying the customary rent to the person entitled to cultivate or let waste land, brings such land under cultivation and is in occupation thereof as cultivator after giving due notice of his intention to do so in writing to such person and if such person has not within 30 days of the receipt of the notice raised any objection thereto in writing;

(c) 'agriculture' includes horticulture, the use of land for any purpose of husbandry inclusive of the keeping or breeding of livestock, poultry or bees, sericulture and the growing of fruits, vegetables and the like;

(d) 'board' means a Debt Conciliation Board established under sub-section (1) of section 3;

(e) 'creditor' means a person to whom a debt is owing and includes a co-operative society;

(f) 'debt' means all liabilities owing to a creditor, in cash or kind, secured or unsecured, whether payable under a decree or order of a civil court or otherwise, and whether mature or not, but shall not include arrears of wages, and revenue or anything recoverable as an arrear of land revenue or any money for the recovery of which a suit is barred by limitation;

(g) 'debtor' means a person—

(i) who earns his livelihood mainly by agriculture or who is a tenant or landlord whether he cultivates the land personally or otherwise; and

(ii) whose debts exceed one hundred rupees;

(h) 'prescribed' means prescribed by rules made under this Regulation;

(i) 'secured debt' includes mortgage debt or any debt for which there is security, lien or charge on immovable property created by deed, statute or otherwise;

(j) 'secured creditor' means a creditor who holds for his debt a security by way of mortgage, lien or charge on immovable property created by a deed, statute or otherwise.

3. (1) The Government may establish a Debt Conciliation Board for any village or group of villages. Such board shall consist of a Chairman and two members appointed by the Government. Two of the members shall ordinarily be non-officials and the Chairman shall be nominated by the Government. The Government may, for reasons to be recorded in writing, cancel the appointment of the Chairman or any member of the board or dissolve any board and from the date of such dissolution the board shall cease to exist.

(2) The Chairman and every member of a board so established shall be appointed for a term not exceeding three years. Such Chairman or member may, on the expiration of the period for which he has been appointed, be again appointed for a further term not exceeding three years.

(3) A board shall have such quorum as may be prescribed.

(4) Where the Chairman and members of a board are unable to agree, the opinion of the majority shall prevail. Where the board is equally divided, the Chairman shall have a casting vote.

(5) When a board is dissolved or otherwise ceases to exist, the Government may, at any time, establish another board for the area for which the former board was established and may declare the board newly established to be the successor-in-office of the board which has ceased to exist and such board shall exercise all the powers under this Regulation.

4. (1) A debtor may make an application for the settlement of his debts to the board established for the local area within which he ordinarily resides, or if no board has been established for that local area to the board established for any local area in which he holds immovable property, if any, but he shall not apply to more than one board.

(2) Unless the debtor has already made an application under subsection (1), any of his creditors may make an application to a board to which the debtor might have applied under that sub-section.

(3) If applications for the settlement of the debts of the same debtor are made to more than one board, such applications shall, in accordance with rules made under this Regulation, be transferred to and dealt with by one board as one single application.

5. Every application to the board shall be in writing and shall be signed and verified in the manner prescribed by the Cochin Civil Procedure Code for signing and verifying plaints.

6. (1) Every application made by a debtor to a board shall contain the following particulars namely:—
 Particulars to be stated in application.

- (a) a statement that the debtor is unable to pay his debts ;
- (b) the place where he resides ;
- (c) the amount and particulars of all claims against him together with the names and residences of his creditors so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by him ; and
- (d) particulars of the debtor's property, both movable and immovable (including claims due to him), a specification of the value thereof and of the places where the same may be found and details of any mortgage, lien or charge subsisting thereon.

(2) Every application made by a creditor shall contain the following particulars, namely:—

- (a) the place where the debtor resides ; and
- (b) the amount and particulars of his claim against such debtor.

7. The application shall be rejected if it does not comply with any of the requirements mentioned in sections 5 and 6.
 Rejection of application.

The rejection of an application under this section shall not preclude the applicant from making a fresh application.

8. (1) On receipt of an application under section 4 the board shall unless it rejects the application under section 7 pass an order fixing a date and place for hearing the application.
 Procedure on application.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor and creditors.

(3) If the application is made by a creditor, the debtor shall, on his appearance, furnish the particulars mentioned in sub-section (1) of section 6 and notice shall be sent to all the creditors specified by him.

9. An application under section 4 may be dismissed by the board at any stage of the proceedings—
 Dismissal of application.

(a) if, for reasons to be stated in writing, the board does not consider it desirable or practicable to effect a settlement of debts; or

(b) if, in the opinion of the board, the applicant fails to pursue his application with due diligence:

Provided that, when such applicant is a creditor, the board, instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Regulation; or

(c) if the application includes a claim which, in the opinion of the board, is collusive and intended to defraud any creditor.

10. (1) If, after examining the debtor, it is in the opinion of the board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be in writing and shall be signed and verified in the manner prescribed by the Cochin Civil Procedure Code for signing and verifying claims and shall be submitted to the board two months from the date of service or publication of the notice as the case may be.
 Notice calling upon creditors to submit statements of debts.

Provided that, if the board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such direction, it may extend the period for the submission of his statement of the debt owed to him.

(2) Subject to the provisions of sub-section (3) every debt of which a statement is not submitted to the board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

(3) If a creditor proves to the satisfaction of the board or a civil court that the notice was not served on him or that he had no knowledge of the publication thereof or that for some other sufficient reason, he was unable to submit the statement, the board or court may revive the debt, if the creditor files an application in that behalf within two months after he becomes aware of the proceedings taken under this section:

Provided that a creditor shall not be entitled to apply under this sub-section to the board and to a civil court simultaneously or to apply to either the board or a civil court after having applied to the other.

11. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 10 shall furnish, along with such statement full particulars of all such debts and shall, at the same time produce all documents, including entries in books of account on which he relies to support his claims together with a true copy of every such document.

Procedure on submission of statement of debts.

(2) The board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1) the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him for the recovery of the debt:

Provided the board or the court shall have power to excuse for valid reasons any default or delay in producing the document and to grant reasonable time for producing the same in any proceeding pending before it.

12. (1) The board shall call upon the debtor and each creditor respectively to explain his case regarding each debt.

Power of board to decide dispute as to the existence or amount of debts or assets.

(2) If there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor the board may decide the matter after taking such evidence as may be adduced by all the parties concerned and such decision shall be binding on all parties in all proceedings before the board:

Provided that a decree of a civil court relating to a debt shall be conclusive evidence as to the existence and amount of the debt.

(3) The board shall prepare a complete schedule of the creditors and of the assets and liabilities of the debtor.

13. (1) Subject to rules made under this Regulation, a board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a civil court by the Cochin Civil Procedure Code.

Power of board to require attendance of persons and production of documents.

(2) Any person present may be required by a board to furnish any information or to produce any document then and there in his possession or power.

14. (1) If the creditors to whom more than fifty per cent of the total amount of the debtor's unsecured debts is owing together with or without any secured creditors come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which, the assets from which and the times at which, they are to be paid. Such agreement if considered equitable by the board shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the board and the parties who have agreed to the amicable settlement:

Agreement of amicable settlement, its registration and effect.

Provided that, when a co-operative society is one of such creditors no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies:

Provided further that when a secured creditor does not agree to the settlement, such settlement shall not affect his rights to proceed against the secured property.

Explanation.—The board shall not consider an agreement equitable unless, in addition to the assets, if any, set apart for the satisfaction of the agreed debts, there are in the opinion of the board sufficient assets of the debtor to satisfy at least to the same extent the non-agreed debts.

(2) An agreement made under sub-section (1) shall, within thirty days from the date of the making thereof, be registered under the Cochin Registration Regulation, V of 1084, by the Chairman of the board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court and be executable as such.

(3) For the purpose of the registration of an agreement under sub-section (2), the Chairman of the board shall be deemed to be an officer of the Government empowered to execute such agreement within the meaning of section 78 of the Cochin Registration Regulation, V of 1084.

(4) If, after the making of an agreement under sub-section (1), any debt is revived by the board or a civil court under sub-section (3) of section 10, the agreement and all proceedings taken in pursuance thereof shall stand cancelled; the application under section 4 shall be deemed to have been received in the office of the board on the date of such revival, and all the provisions of this Regulation shall apply in respect of the application accordingly.

15. In any scheme of debt conciliation under this Regulation such properties as are exempt from attachment under the Cochin Civil Procedure Code shall not be taken into account and shall be left to the judgment-debtor free from any liability for his debts.

Properties exempt from attachment not to be taken into account.

16. In any scheme of debt conciliation under this Regulation, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than twice the amount of the principal.

Maximum amount allowable in satisfaction of a debt.

17. If no amicable settlement is arrived at under sub-section (1) of section 14 within twelve months from the date of the application under section 4, the board shall dismiss the application and such dismissal shall be a bar to the presentation of any further application under section 4.

Power of board to dismiss application.

18. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the board shall, if it is of opinion that the debtor has made such creditor a fair offer which the creditor

Grant of certificate in respect of certain debts.

ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed in respect of the debts owed by him to such creditor.

The board in coming to a decision whether the offer made is fair or not may take into consideration—

- (i) the fall or rise in the value of land and its produce, in the locality;
- (ii) the amount of consideration actually received;
- (iii) the reasonableness of the rate of interest;
- (iv) the onerous conditions, if any, subject to which the loan was granted;
- (v) whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were; and
- (vi) any other particulars which the board thinks it desirable to take into account.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at 3 per cent per annum on the principal amount due on the date of such certificate.

(3) Where after the registration of an agreement under sub-section (2) of section 14, any unsecured creditor sues for the recovery of a debt (other than a debt incurred subsequent to such agreement) in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such agreement, any decree passed in such suit shall, notwithstanding anything contained in the Cochin Civil Procedure Code, not be executed as against the assets, if any, set apart in the agreement for the satisfaction of the agreed debts until all amounts recorded as payable under such agreement have been paid.

19. No civil court shall entertain—

(a) any suit in respect of—

Bar of civil suits. (1) any matter pending before a board; or
(2) the validity of any procedure or the legality of any agreement made under this Regulation; or

(3) the recovery of a debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 14 from any person who, as a debtor, was party to such agreement; or

(4) the recovery of a debt which has been deemed to have been duly discharged under sub-section (2) of section 10, except a debt which is revived under sub-section (3) of that section; or

(b) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 18.

20. Every transfer of property by a debtor made without the sanction of the board after an application by him or by a creditor has been made to a board under section 4 and until the agreement registered in pursuance of such application has been fully carried out shall be void.

21. Any alienation of land for a fair price made with the sanction of the board in pursuance of or to carry out the agreement mentioned in section 14 shall not be considered as a fraudulent preference under the Cochin Insolvency Regulation, nor shall such alienation be voidable as made with intent to defeat or delay creditors.

Avoidance of certain transfers of debtors' property.

Alienation made with sanction of board not to be considered as a fraudulent preference.

22. No appeal or application for revision shall lie against any order passed by a board.
 Bar of appeal or revision.

23. A board may, on application from any person interested made within ninety days of the passing of an order, or on its own motion at any time, review any order passed by it and pass such order in reference thereto as it thinks fit.
 Power of board to review order.

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

24. In any proceeding before a board any party may appear in person or with the permission of the board by a legal practitioner or an agent authorised in writing.
 Appearance of parties before board.

25. When an application has been made to a board under section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall not be proceeded with until the board has dismissed the application.
 Stay of pending suits or other proceedings.

26. Where in the course of an enquiry into an application made under section 4 a board finds that there is any sum owing to Government, the board shall report the fact to the Government.
 Report by board regarding sums due to Government.

27. (1) In calculating the period of limitation for any suit filed in, or proceedings before, a civil court for the recovery of a debt which was the subject of any proceedings under this Regulation, the time during which such proceedings were pending as well as the time taken for the obtaining of certified copies of the order of the board shall be excluded.
 Computation of period of limitation for suits and proceedings.

(2) The period during which proceedings under this Regulation have been pending including the actual period fixed in the agreement for payment of all the debts shall, in all suits filed or proceedings taken, in civil courts to recover debts, be excluded from computation under section 227 of the Cochin Civil Procedure Code, or under the Cochin Limitation Regulation, II of 1079.

28. The members of a board shall be deemed to be public servants within the meaning of the Cochin Penal Code.
 Members of the board deemed to be public servants.

29. (1) The Government may make rules to carry out all or any of the purposes of this Regulation and not inconsistent therewith.
 Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, they shall have power to make rules—

(a) with reference to all matters expressly required or allowed by this Regulation to be prescribed;

(b) regulating the procedure before a board;

(c) prescribing the charges to be made by a board for anything done under this Regulation and the persons by whom and the manner in which such charges shall be paid;

(d) prescribing the records to be kept and the returns to be made by a board;

(e) prescribing the allowances, if any, to be paid to the chairman and members of a board;

(f) regulating the power of a board to summon parties and witnesses and the production of documents under section 13 and the grant of expenses to witnesses; and

(g) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 14.

(3) All rules made under this Regulation shall be subject to the condition of the rules being made after previous publication.

In making any rule, the Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and in case of a continuing breach with fine which may extend to ten rupees for every day during which the breach continues after the first breach.

30. No stamp duty under the Cochin Stamp Regulation, VI of 1083, or the Cochin Court Fees Regulation, II of 1080, shall be leviable in respect of any application or statement or any document or copies of documents presented to or filed or produced before the board. Nor shall any such duty be leviable in respect of the agreement mentioned in section 14.

Exemption from stamp duty.

A. SANKARA MENON,
Chairman.

Minutes of dissent to the report of the Select Committee on the Cochin Debt Conciliation Bill, submitted by Mr. C. S. Viswanatha Ayyar:—

Subject to the accompanying minutes of dissent and amendments, I approve the modifications made by the Committee to the original Bill.

The Bill as it now stands will be operative against all debts irrespective of the time of their origin or other considerations. I want to limit the scope of the Bill to debts having their origin any time prior to 1st Chingam 1106 and that for very good reasons. A perusal of the objects and reasons of the Bill will convince even a casual reader that the unprecedented economic depression that is now throttling the land and the unfortunate and pitiable lot of the agriculturist following in the wake of that depression have been the main reason for the passing of this legislation. Arguments in support of a Bill of this nature are often being advanced to the effect that the proverbially indebted agriculturist incurred debts at a time when the price of both the lands and the outcome of lands used to fetch a big price and loans were advanced to him in that proportion. The economic depression has brought in a fall both in the price of the lands and the agricultural products. And this unenviable state of things have driven the creditor to the necessity of realising his money and in certain cases it has been suggested that the creditor has taken undue advantage of the helpless lot of the agriculturist-debtor and begun to press his claims with a view to force the agriculturist to part with his all. The agriculturist had already borrowed to his maximum capacity before the depression set in, and that maximum capacity is now found to be far in excess of the whole value of the land and hence nobody will now step forward to lend him anything to meet the claims of his avaricious creditor. Hence it is concluded that a situation has arisen when the State ought to interfere and set aright things. So far the arguments may be right.

The depression set in, in the year 1105 and this fact has already been conclusively proved by the Committee appointed by the Travancore Government. After elaborate enquiry that committee came to the unanimous finding that the depression began in 1105. A plea for the establishment of a similar committee to go into these questions before actually taking up a legislation of this type put in by me at the introduction stage was negatived by the Council and hence we have to accept and act up to the findings of committees appointed by other States to help us in our deliberations. It cannot for one moment be suggested much less accepted, that after the depression had set in, any creditor would have advanced anything beyond the then price of the land and the earning capacity of the agriculturist. After the depression both the creditor and the debtor enter into a transaction with eyes wide open to the surrounding conditions and hence the fear of the creditor taking advantage of the debtors' pitiable position pales out. It cannot be said that the land is groaning under the weight of a debt

since both the creditor and the debtor are careful to see that the land is not being overburdened.

To illustrate my position and to bring home the full significance of my position I may state that the land which used to cost about Rs. 1,000 before 1105 would now fetch something near Rs. 500 only. At the time of the higher price the debtor would have taken a loan of Rs. 750 and any creditor would have advanced that amount. Since the present price brought about the economic depression is not sufficient to cover up even the original principal the creditor will press his claims and there will be none now to advance anything more than $\frac{3}{4}$ of the present value of the land viz., Rs. 375 and hence the land will pass on to the creditor for no fault of the debtor. Therefore there is the supreme necessity for the State to interfere and adjust affairs between the parties. But after the depression had set in the creditor will not advance anything more than the bearing capacity of the land viz., Rs. 375. So land worth Rs. 1,000 before the depression would be burdened only with Rs. 375 after the depression and so there is absolutely no necessity for the adjustment of debts so incurred. Both parties enter into the transaction with eyes wide open quite aware of the consequences of their acts. Not only that the whole thing is being measured by the prevailing money value and hence to me it appears that a Bill of this nature is uncalled for in respect of a debt incurred or having its origin any time after the depression has set in.

For the foregoing reasons I am for fixing the period of debts which can be brought within the bounds of this proposed legislation at the 1st Chingam 1106.

Another important matter on which I had to differ from the Members of the Select Committee is the question of fixing qualification for the President and members of the Board like the Madras Legislation. In an important measure of this type which is bound to have far-reaching effects and to act as a Court of justice in a smaller scale where, certain provisions of the Code of Civil Procedure and Evidence Act are bound to play a prominent part so often, it is always safer to have as President one who had to deal with such questions and matters and with that sole object I am for prescribing the qualifications of the Chairman. He should have held the post of a District Judge or anything higher and in a State like ours wherein we have many retired officers both from the State and from the British India it will not at all be difficult to get at such persons if we really want their assistance. The necessity for deciding legal matters is the necessity for having one as Chairman who had had experience in such and allied matters. And again the assistance of an experienced Revenue Officer is necessary in the very nature of this legislation. This legislation concerns the land directly and in assessing the value of lands, etc., to see whether there has been a reasonable offer under section 18 of the Bill. Therefore my proposal to make it incumbent on the Government to secure the services of one who had ample Revenue work. It has always to be borne in mind that the members of the Board should be above suspicion and must infuse confidence in the public. Since the Bill is of a voluntary nature it is essential for a successful working of it that the members should be persons of integrity and persons who have held very responsible offices in life. The very personnel of the Board should infuse confidence in the minds of the creditors to induce them to come to a reasonable understanding. Therefore I am for having one member at least to have held the post of a Diwan Peishkar in the State or a Deputy Collector in British India. Much depends on the creditors for the future of this Bill, and so it is essential that the creditor class ought to be represented in the Board. Again a creditor from the locality is the best person who can feel the pulse of the creditors of the locality as a whole. With a creditor member in the Board, it should certainly go a long way in infusing confidence in the minds of the creditor class as a whole. Therefore I am for fixing one creditor member on the Board and I am sure that the reasons adduced by me will convince anyone about the reasonableness of my proposals and the necessity even of accepting them.

When an application is made by a debtor to the Board, it should be made obligatory on his part to give a complete list of all his creditors and not as far

as he can find out as in the proposed Bill. It is but right to suppose that the debtor ought to know all his creditors and this will also effectively check the possibility of bogus creditors, springing up on a future occasion. It may so happen that the debtor will wait and see the attitude taken up by the real creditors before asking bogus ones to come before the Board. If he finds that the required percentage of the creditors do not come round he will at once make bogus creditors to come up under the shelter afforded by section 10 (3) of the Bill and manipulate to have the required percentage on his side. The creditor cannot off-hand come to a conclusion and the furnishing of the real position of the debtor will go a long way in helping him to come to a decision. Hence it is imperative that the debtor should furnish a full and true list of his creditors when making the applications. Again it is more for the proper and successful working of the Bill that I want this short amendment to be effected to the original Bill. This amendment will not work any hardship on the debtor since he alone is the proper person who can supply such a complete list and he should be in the know of the whole affair. Before deciding what sort of relief should be given to a complainant it is essential we should know from what sort of grief he is suffering and the intensity of such grief. Without revealing his real position we shall not be in a position to give him adequate relief, and therefore I suggest that provision should be made making it obligatory on the part of the debtor to furnish a complete list of his creditors and their dues as well.

Another important change I want to bring in the Bill is the provision for penalising a recalcitrant debtor. In arriving at a conciliation the Board will always have in view the future well-being of the debtor and it is possible to suppose that something out of his estate will be reserved for him by the Board. He may be given at least a one anna share or $\frac{1}{2}$ anna share in his assets as affording him something enabling him to have a fresh start in life. The Board will follow the maxim of "Live and let live" in arriving at a definite conclusion. Ample provision has been made to penalise a creditor who dare ignore a certificate issued by the Board under section 18 (2) and agitates his legitimate full rights in a Court of Law. I am for penalising a debtor as well who refuses to abide by the decision of the Board. It may so happen that after elaborate enquiry the Board will give the debtor a negligible share in the assets and the debtor may resent that. According to the provisions of the proposed Bill, the Board can issue a certificate only if the debtor consents and even if the creditors do not agree. If the debtor does not consent the parties will have again to resort to courts however willing the creditor may be to give up a share of his legitimate dues. In many cases the debtor will stand to gain by refusing to agree to a conciliation and my idea is only to save the abuse of this Bill by the debtor. According to the proposed Bill, the Board is given one full year for effecting a conciliation after the preliminary work like publicity, appearance of parties before the Board, putting in claims, etc. Taking the conditions now prevailing in the country as evidenced by the time taken by Courts of Law we can safely put it as 2 years before the Board will give a final finding and during this long period all proceedings in a Court of Law in respect of a debt pending before the Board will be automatically stayed. That means during these two years the debtor will be in the possession of the assets and the full enjoyment of the income from such assets as well. After the lapse of these two years he can set at nought all the labours of the Board by simply saying 'Nay' to their proposals when the Board will become helpless. Then the creditor goes back to the court and the debtor puts all sorts of conceivable obstacles in the way like contesting the suit, etc., in the hope of holding on the assets and enjoying the income in full. If the estate happens to be an extensive one then he stands to gain considerably for obvious reasons. That means another couple or even more of years. The debtor will first approach the Board to put a check on the remedies that are likely to be given by the court with the full confidence of his holding the possession. Even in insolvency matters the assets are put in the possession of the Official Receiver but here the assets remain with the debtor himself thus profiting him all the while. It is to ward off such an abuse that I want a few provisions to be added to the Bill as sections 18 (a) and 18 (b). My amendments will effectively check any further mischief since it prevents the debtor from dragging on the litigation in court. A perusal of my

amendments will show that they attempt at shutting out all defence to a suit and give a speedy remedy to the creditor who had been allowed to wait with hope for a long time and at the end asked to go his way.

Again no Bill can afford to penalise only one party. The present Bill while penalising a recalcitrant creditor has lost sight of a recalcitrant debtor and my amendments to the section only fills up this glaring gap. Either parties should be made to respect a Board and its findings and any attempt on either of them to abuse the findings and nullify its labours must necessarily be penalised. Without a penal provision any legislation will be a failure and on that ground as well I submit that the amendments proposed by me would be found to be acceptable.

An equally important change that I seek to effect towards saving the Bill from being abused by unscrupulous persons in the vesting of jurisdiction in civil courts to rectify irregularities and doubtful conclusions arrived at by the Board on matters of law, etc. The present Bill completely takes away from the Courts of Law all powers to look into the grievances of aggrieved parties. The Bill is a legal measure and there is scope for the Board to be a small court in itself. Very often the Board may come to doubtful conclusions on matters of admissibility of evidence, civil procedure, etc., not to speak of its going astray in properly appreciating and applying the various provisions of the Bill. After a certain stage the Bill becomes compulsory and if the Board has gone astray anywhere no power on earth can set it right and this is certainly an unwelcome state of affairs. It is only to rectify errors committed in the application of the various provisions and the appreciation of the various points of law that are likely to be raised before the Board that I want to vest the civil court with necessary jurisdiction. This vesting of jurisdiction in civil courts will again go a long way in infusing confidence in the minds of the public and tend towards a successful working of the Bill. It may not be out of place to refer in this connection a similar provision has been made ousting the jurisdiction of civil courts to enquire into the findings of the Registrar of Co-operative Societies. For a considerable number of years the pleasant state of non-interference by civil courts continued and there was peace and happiness in the abode of the Registrar. But it was given to the then District Judge of Trichur, our present Government Advocate and Law Officer, to explode that theory and deal a blow at the supposed dictatorship of the Registrar and the Chief Court in 24 Cochin 266 paid him the compliment of quoting his observations in full and agreeing with him. I invite the attention of the members of the committee to that judgment and for the reasons contained therein put in a plea for the acceptance of my amendment and vesting civil courts with necessary jurisdiction.

It is again likely that questions of limitation will be raised before the Board and any finding on points of law must be subject to the inherent right of appeal without which all the charm of a finding will be lost. For these considerations I am for deleting the sub-clause 2 to section 19 of the Bill.

These are the important changes that I want to be effected before giving my unqualified support to the Bill. It will be apparent that in suggesting these changes I am impelled with the one idea of making the Board acceptable to one and all and assure the successful working of the Bill.

As legislators it is but proper that we should always ensure the successful working by any piece of legislation of this type which is meeting with criticism from an important section of the population. The acme of any legislation, depends upon the safeguards provided for, and ensuring the success of its working and once this is lost sight of, the whole structure is bound to fall, and the very object of the legislation will be lost and negated. The changes proposed by me are only towards this direction and I sincerely believe that to any un-biassed person, my changes will commend themselves. I may be pardoned if I state frankly, that in proposing these changes, and minutely going through the various provisions of the Bill, I have never been actuated with the motives of an

unscrupulous creditor, nor have I ever felt that I am myself a creditor. Quite the contrary, I have viewed them with all the sympathy a debtor deserves, added with all the responsibility of a member of a legislative body, anxious to positively ensure the successful working of this type of legislation, and guarding it against its provisions being misused in any way by any unscrupulous individual. I conclude with the hope that my amendments for the reasons detailed herein will commend themselves to the members of the committee and that once they are accepted by the House our Bill will certainly help both the creditor and debtor to realise one another's difficulties, brought about by unprecedented natural conditions. So help us God!

(Sd.) C. S. VISWANATHA AYYAR,
9th Mithunam 1111.

AMENDMENTS TO THE SELECT COMMITTEE PROPOSALS PROPOSED BY MR. C. S. VISWANATHA AYYAR.

In section 2 (f) after the words "barred by limitation" add the words "or any debt which had its origin after 1st Chingam, 1106".

In section 2 (g) ii after the words "debts exceed" delete the word "one" and insert the word "Five".

In section 3 (1) after the words "Debt Conciliation Board for" delete the words "any village or group of villages" and insert "groups of Taluks or the State as a whole." After the words "consist of a Chairman and" delete the words "two members" and insert "four members". After the words "appointed by the Government" delete the words "Two of the members shall ordinarily be non-officials and the Chairman shall be nominated by the Government", and insert in its stead "The Chairman should be a person who holds or has held an office not lower in rank than that of a District Judge. Two of the members shall be non-officials representing the creditors and one of them shall be one who has held office under the Government of a grade not less than that of a Diwan Peishkar in the State or Deputy Collector in British India".

After the words "recorded in writing" add the words "and published in the Gazette."

In section 6 (e) after the words "residences of his creditors" delete "so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by him."

In section 7, after the words "a fresh application" add the words "within one month."

In section 8 (2) after the words "registered post" add the words "or registered anchal with acknowledgment due".

In section 10 (1) after the words "issued and served" delete "or" and insert "and"—Again after the words "date of service" delete 'or' and insert 'and'.

In section 18 (2) after the words "in excess of simple interest at" delete '3' and insert '6'.

Add. As sections.

18-A. Where, during the hearing of any application made under section, 4, any debtor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the creditor has made such debtor a fair offer which the debtor ought reasonably to accept, grant the creditor a certificate, in such form as may be prescribed, in respect of the debts owed to him by such debtor.

18-B. Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1) the court shall, notwithstanding the provisions of any law for the time being in force, not allow the defendant to contest the suit but allow the plaintiff all his costs and interest at the stipulated rate.

In section 19 (a) omit (2).

In section 24 after the words "may appear in person or" delete the words "with the permission of the board."

In section 29 (3) after the words "after previous publication" add the words "in three consecutive issues of the Gazette."

(Sd.) C. S. VISWANATHA AYYAR,
9th Mithunam 1111.

(True copies)

B. V. KRISHNANKUTTY MENON,
Secretary to the Council.

NOTIFICATION.

No. 100.—Under section 29 (3) of the Cochin Debt Conciliation Regulation, XXVI of 1112, Government are pleased to publish the following draft rules for public criticism. Objections and criticisms, if any, should be forwarded so as to reach the Huzur Secretariat not later than Wednesday, the 26th May 1937 (13th Edavam 1112).

.. Rules.

1. (1) These rules may be called the Cochin Debt Conciliation Rules, 1112.
- (2) They shall come into force on.....
2. In these rules,—
 - (a) "the Regulation" means the Cochin Debt Conciliation Regulation, XXVI of 1112.
 - (b) "Board" means a Board established under the Regulation; and
 - (c) "section" means a section of the Regulation.
3. (1) The quorum necessary for the transaction of business at a meeting of a Board shall be two, of whom one shall be the Chairman.
- (2) The Chairman shall preside at every meeting of the Board, and shall regulate the course of all business.
4. (1) If any member of a Board other than the Chairman is a party to, or personally interested in, any application before the Board, he shall withdraw from the Board during the hearing of such application and shall take no part in its determination.
- (2) If the Chairman is a party to, or personally interested in, any application before the Board, the Chairman shall report such fact to the *Diwan Peishkar* and the *Diwan Peishkar* shall transfer the application to another Board for disposal.
5. (1) The head-quarters of a Board shall be the head-quarters of the officer who is its Chairman or if the Chairman is a non-official, such place as may be fixed by Government.
- (2) The Board shall ordinarily sit for the transaction of its business at its head-quarters, but may sit at such other place as may be fixed by its Chairman. The Chairman shall fix the time for each meeting. In fixing the place and time for meetings, the Chairman shall have regard to the convenience of the Board and of the parties.
- (3) The Board may adjourn its proceedings as may be deemed desirable for the proper transaction of its business.
6. Applications under section 4, notices under sections 8 and 10 and certificates under section 18 shall be in such of the forms in Appendix I to these rules as may be applicable.
7. Every application under the Regulation shall be presented at the office of the Board, during office hours, by the applicant in person or by an agent authorised by him in writing, to the Chairman or, during his absence, to the person authorised by the Chairman to receive such application on his behalf.
8. If applications for the settlement of the debts of the same debtor are made to more than one Board, the *Diwan Peishkar* shall call for the applications from the different Boards and decide which Board can most conveniently deal with all such applications, and transfer for disposal by such Board all such applications presented to the other Boards.
- Pending such decision by the *Diwan Peishkar* no further proceedings shall be taken in respect of the applications by any of the Boards.
9. Every applications under section 4 shall be stamped with a Court-fee stamp of the value of eight annas.
10. The proceedings of the Board shall be recorded in English or Malayalam as the Chairman may in individual cases decide.
11. In making an enquiry under the Regulation, the Board may examine orally and party, or any other person supposed to be acquainted with the matter under enquiry or any fact relevant thereto, and the Chairman shall reduce to writing the substance of such examination.

Such party or other person shall be bound to answer truly all questions relating to such matter or fact put to him by the Board other than questions the answers to which would expose him to a criminal charge or to a penalty or forfeiture.

12. The written statements filed by parties and the substance of the examination of parties and other persons, reduced to writing under rule 11, shall form part of the record.

13. All certificates granted by the Board shall be signed by the Chairman and shall be dated and sealed with the seal of the Board.

14. A copy of the notice under sub-section (1) of section 10 shall be served on each known creditor. A copy shall also be posted on the notice board of the taluk office in each of the taluks where the debtor has property and of the office of the board.

A copy shall also be posted in a conspicuous place in the village where the debtor ordinarily resides and in each of the villages, in which any immovable property, in which the debtor has any saleable interest, is situated.

15. Every summons issued under the Regulation shall be in writing and shall require the person summoned to appear at a stated time and place and shall specify whether his attendance is required for the purpose of giving evidence, or to produce a document, or for both purposes, and any particular document, the production of which is required, shall be precisely specified.

16. Any person summoned merely to produce a document shall be deemed to have complied with the summons, if he causes such document to be produced, without attending personally to produce the same.

17. (1) The service of summons under the Regulation on any person may be effected.—

(a) by giving or tendering it to such person; or

(b) if such person is not found, by leaving it at his last known place of abode or business, or by giving or tendering it to some adult member of his family or his authorised agent; or

(c) if the address of such person is known to the Board, by sending it to him by post or anchal registered; or

(d) if none of the means aforesaid is available, by affixing it in some conspicuous part of his last known place of abode or business.

(2) When the serving officer delivers or tenders a copy of the summons to the person concerned personally or to an agent or other person on his behalf, such officer shall require the person to whom the copy is delivered or tendered to sign an acknowledgment of service endorsed on the original summons.

(3) The serving officer shall, in all cases in which the summons has been served, add or cause to be added to the original summons an endorsement or annexure stating the date when, and the manner in which, the summons was served and the name and address of the person (if any) identifying the person served, or his place of abode or business and witnessing the delivery, posting or tender of the summons.

(4) All processes issued by the Board shall be served through the agency of the revenue establishment.

18. When the person whose evidence is required is unable, from sickness or infirmity, to attend before the Board issuing the summons, or is a person whom by reason of rank or sex it may not be proper to summon, the Board issuing the summons may, of its own motion or on the application of the person whose evidence is required, dispense with his appearance, and order him to be examined by a person deputed by the Board for the purpose.

19. Where the person whose attendance is required is a public officer or is the servant of a Railway Company or local authority, the officer issuing the summons may, if it appears that the summons may be most conveniently so served, send it by registered post or anchal, prepaid for acknowledgment, for service on the person whose attendance is required to the head of the office in which he is employed together with a copy to be retained by that person.

20. (1) A party who desires the attendance of a witness either to give evidence or produce a document shall deposit with the Board—

(a) in Court-fees stamps, process fees in accordance with the scales prescribed in the Civil Rules of Practice, and

(b) in cash, allowances for travelling to and attending at Court in accordance with the scales laid down in the Civil Rules of Practice.

(2) If the party required to make such deposits fails to do so within 15 days from the date of his application for the issue of process such application shall be dismissed. But he may within one month of such dismissal apply to have the dismissal set aside and the Board may, in its discretion, restore the application and deal with it.

(3) When the Board causes the attendance of a witness of its own motion and not at the instance of a party, the Board shall pass such orders, as it thinks fit, as to the payment of expenses to the witness and as to the party or parties by whom such expenses are to be borne.

21. (1) The stamp duty on an agreement drawn up under sub-section (2) of section 14 shall be paid by the debtor.

(2) The cost of registering the agreement shall be paid by the creditors who are parties to it, the amount payable by each creditor being proportionate to the compounded debt stated to be payable to him under the agreement. If any creditor commits default in paying his share of such cost, it shall be recoverable from him as an arrear of land revenue.

22. Every application for a copy shall be addressed to the Chairman. The rules regarding grant of certified copies contained in the Civil Rules of Practice shall be followed in granting copies of the records maintained by a Board.

23. (1) The following registers and books shall be maintained by a Board:—

- (a) Register of applications
- (b) Register of certificates.
- (c) (i) Process register.
- (ii) Nominal Roster of Process Servers.
- (d) Diet-money register.
- (e) Register of copy applications.
- (f) Receipt Book (in duplicate foils).
- (g) Register of contingent expenditure.
- (h) Cash book.
- (i) Remittance register.

These registers and books shall be maintained in the forms prescribed in Appendix II to these rules.

(2) After the close of each year, the registers and books specified in sub-rule (1), after the entries relating to pending cases have been transcribed into new registers and books, and the records relating to completed proceedings of cases shall be transferred to the *Diwan Peishkar*.

(3) The registers, books and records aforesaid shall be preserved for the periods specified below against each:—

- (a) Registers and books—6 years;
- (b) Records relating to cases:
 - (i) dismissed under section 9—2 years;
 - (ii) dismissed under section 17—2 years;
 - (iii) in which certificates have been granted under section 18 (1)—20 years; and
 - (iv) which have resulted in an agreement—3 years after the date of payment of the last instalment.

24. Each Board shall submit *through the Diwan Peishkar* to the Government a *monthly* progress return in Form No. VI in Appendix I to these rules

25. Each Board shall submit every year, *through the Diwan Peishkar*, an annual report on the working of the Regulation during the previous year so as to reach the Huzur Secretariat not later than the 15th of Thulam. Such report shall indicate—

- (i) progress of work and results achieved;
(ii) difficulties experienced in working the Regulation;
(iii) amendments, if any, that appear to be necessary to the Regulation or the rules; and
(iv) such statistics or other information as may be prescribed, from time to time, by the Government.

26. The Chairman or a member of the Board, if a non-official, shall be entitled to draw travelling allowance for any journey performed by him in connection with his duties as such Chairman or member at the following rates:—

Journeys by rail—One second-class fare.

Journeys by road—Annas four a mile.

Daily allowance for halts—Rupees two per day.

The drawal of allowances will be subject to the conditions laid down in the Cochin Service Regulations.

27. The Chairman or a member of a Board, if an official, shall be entitled to draw for any journey, travelling allowance and halting allowance at rates to which he would be entitled by virtue of his official position.

28. *The Diwan Peishkar* shall be the controlling officer empowered to countersign the travelling allowance bills of the Chairman and members of a Board.

29. The Government may provide for each Board such ministerial and menial staff as it may from time to time require, and may regulate the conditions of their employment and fix the salaries and allowances payable to them.

30. In all administrative matters, the Board shall be *subordinate to the Diwan Peishkar* who shall be subject to the control of the Government. *The Diwan Peishkar* shall appoint, punish and generally control the staff of the Board but may, with the concurrence of the Government delegate to the Chairman of a Board such of his powers under this Rule except that of appointment, as he may see fit. But the Chairman of the Board shall be competent to appoint and punish the menial establishment.

31. The Diwan Peishkar shall inspect the Board's records at least once a year, but he may inspect them more frequently if he sees fit to do so. He shall submit a report to the Government on the results of such inspection, once a year.

32. In every case in which a debtor or a creditor is a minor or a person of unsound mind, the procedure laid down in Order XXXII of the First Schedule to the Cochin Code of Civil Procedure, 1111, shall be applied.

APPENDIX I.

(Referred to in rules 6 and 24.)

FORM No. I.

Form of application to be made by a debtor under section 4 (1) of the Cochin Debt Conciliation Regulation.

To

The Debt Conciliation Board,

Under section 4 (1) of the Cochin Debt Conciliation Regulation, I.....
son of....., caste..... resident of.....taluk, beg to
apply for settlement of my debts.

2. The amount and particulars of all claims against me are as follows.—

Name, residence and full address of the creditor	Amount of debt	Particulars of debts including date of commencement, rate of interest, whether secured, and if so, how, etc.
(1)	(2)	(3)

Total ...

3. I hereby declare, that I am unable to pay the debts owned by me as shown above and that I have not made any application to any other board.

4. The amount and particulars of my property including claims due to me are as follows.—

(1) Immovable property.

Specification of property with boundaries where necessary	Name of village with survey numbers owned	Description of field	Extent and assessment or rent	Income derived	Market value	Details of any mortgage lien or charge subsisting thereon	Remarks
1	2	3	4	5	6	7	8
Lands. Houses.							

(2) Movables, including cash—

Description, and the place where they are kept	Value	Details of any mortgage lien or charge subsisting thereon
--	-------	---

(3) Claims due—

Name and address of debtor	Amount due	Particulars of debts including date of commencement, rate of interest, whether secured and if so, how, etc.	Nature of the document evidencing the claim and in whose possession
----------------------------	------------	---	---

.....
Signature of the applicant.

Verified that the contents of paragraphs.....of the application are true upon the personal knowledge of and those in paragraphs.....upon information received and believed to be true by, the undersigned.

.....
Signature of the applicant.

FORM No. II.

Form of application to be made by a creditor, under section 4 (2) of the Cochin Debt Conciliation Regulation.

To

The Debt Conciliation Board,

Under section 4 (2) of the Cochin Debt Conciliation Regulation, I.....

son of,..... caste..... resident of,..... taluk beg to apply for the settlement of my claims against..... who is my debtor I declare that I have not made any application to any other board in respect of these claims.

2 The particulars required by section 6 of the Regulation are as follows:—

Name, residence and full address of the creditor	Name and full address of the debtor against whom the creditor has claims	The amount of claims due to the creditor	Particulars of the claims including the date of commencement, rate of interest, whether secured and if so how

Total ..

.....
Signature of the applicant.

Verified that the contents of the application are true upon the personal knowledge of the undersigned.

.....
Signature of the applicant.

FORM No. III.

Form of notice to creditors of debtor under section 8 (2) / 8 (3) of the Cochin Debt Conciliation Regulation.

Notice is hereby given to that an application under section (4) 1 of the aforesaid Regulation has been submitted for the settlement of the debts of 4 (2) and will be examined by the Board together with any objections that may be preferred by any person interested at; at o'clock on the day of III Dated the of III

(Seal of the Board.)

Signature of the Chairman
Debt Conciliation Board
or
some other person authorised in this behalf.

FORM No. IV.

Form of notice under section 10 (1) of the Cochin Debt Conciliation Regulation. Whereas, son of caste of taluk debtor has submitted an application under section 4 of the aforesaid Regulation for the settlement of the debts of son of caste of taluk.

Whereas the Board is of the opinion that it is desirable to attempt to effect a settlement between the said debtor and his creditors, you as one of the creditors all the creditors to whom the said debtor is indebted are hereby required to submit to the Board a statement in writing on or before the at the Board's office at of all debts owed to you by the said debtor.

The Board will scrutinize this statement at 11 a. m. on day when you should appear before the Board,

2. You are also required to furnish along with such statement, full particulars of all such debts and shall at the same time produce all documents including entries in books of account on which you rely to support your claims, together with a true copy of every such document.

Attention is invited to section 10 (2) of the said Regulation under which every debt of which a statement is not submitted to the Board in compliance with this notice shall be deemed for all purposes, and all occasions, to have been duly discharged.

Attention is also invited to section 11 (3) of the said Regulation, under which if any document which is in your possession or under your control is not produced by you, the document will not be admissible in evidence against the debtor in any suit brought by you or by any person claiming under you for the recovery of the debt.

The settlement in this case will take place at at 11 a. m. on the day of III when you should appear before the Board.

Dated the day of III

(Seal of the Board.)

Signature of the Chairman,
Debt Conciliation Board
or
some other person authorized in this behalf.

FORM No. V.

Form of certificate under section 18 (1) of the Cochin Debt Conciliation Regulation.

This is to certify that during proceedings No. of under the Cochin Debt Conciliation Regulation, between (debtor) on one hand and of (creditor) on the other hand, for the settlement of an alleged debt of Rs. the said creditor has in our opinion, refused a fair offer of settlement made by the said debtor, which the said creditor ought reasonably to have accepted.

2. The following particulars of the debt were furnished by the said creditor under section 10 (1) of the Regulation.

(Here enter particulars.)

Dated, the day of III

(Seal of the Board)

Signature of the Chairman,
Debt Conciliation Board.

(c)
Register of copy applications.

1	Petition number
2	Date of receipt
3	Name and address of the applicant
4	Description of record copy of which is required
5	Number and value of court fee stamps affixed to the application for search for the records
6	Orders of the head of office as to whether copies may be granted or not with date of order
7	Total number of words to be copied
8	Total number of "three-anna" stamp papers required at 175 words a paper or the amount of fees payable in cash
9	Date on which information of the (a) number of stamped papers required, or (b) the fee to be paid or (c) the postage labels required or (d) the search fee required was given to the applicant
10	(a) Number of stamped papers, or (b) amount of cash or (c) postage labels deposited, with the initials of the head ministerial officer and date
11	Name of copyist to whom they were handed over for copying and his initials in token of receipt
12	When copy was ready
13	Name of examiner and the date on which the copy was examined with his initials
14	When copy delivered or sent by post or destroyed
15	Signature of applicant when delivered in person
16	Signatures of the copyist and examiner in token of having received the fee paid in cash
17	Number of stamped papers copied and compared and number returned unused with initials of the head ministerial officer and date in each case
18	Remarks (here enter the month in which each item is billed for with initials of the head ministerial officer and date)

(f)
Receipt book.
In the office of the Debt Conciliation Board of
RECEIVED THIS day of
the sum of Rs- being
son of

Chairman.

(g)
Register of contingent expenditure.

1	Date
2	To whom paid. Appropriation for each head
3	Number of sub vouchers. contingent abstract
4	Sub-head and detailed account heads Sub-divisions of sub-heads and detailed account heads as may be convenient. If the appropriation be not ordinarily allotted among the sub-divisions of a sub-head or detailed account head they should be linked by a brace and the amount placed below. Each of these spaces represents a money column
5	Sub-head and detailed account head Sub-divisions of sub-heads and detailed account heads
6	Description
6	Amount
7	Total of each contingent abstract
8	Total of each month's bill
9	Date of detailed bill
10	Date of admission with initials
11	Remarks

Rs. A.P.

(h)

Cash Book,

Debt Conciliation Board of

Year.

Dr.

Cr.

Date	Folio in ledger	Heading of item	Details of item	Amount	Date	Folio in ledger	Heading of item	Details of item	Amount
1	2	3	4	5	6	7	8	9	10
				Rs. A. P.					Rs. A. P.

(i)

Remittance Register.

CHALAN.

No. _____
Debt Conciliation Board of
To _____
The Officer in charge
of the Treasury at
Received Rs. _____ from
to the account
of No. _____ of
_____ on the file of this Board
Dated _____

Initials of the Chairman of
the Board.

The Huzur Secretariat,
Law and Justice Department,
26th April 1937.
14th Medam IIII2.

CHALAN.

No. _____
Debt Conciliation Board of
To _____
The Officer in charge
of the Treasury at
You are requested to re-
ceive the sum of Rs. _____
from _____
and credit the same
to the account of
No. _____ of _____ on the file
of the Board
Dated _____

Signature of the Chairman
of the Board

T. S. NARAYANA AYYAR,

Secretary to Government.

CHALAN.

No. _____
Treasury office
Received this
day of _____
and entered as No. _____ of
_____ in the register of
Civil Court's Deposit of the
sum of Rs. _____ from
_____ to the credit of the
account of
No. _____ of _____ on
the file of the Debt Conci-
liation Board of
Dated _____
Signature of the Officer
in charge of the Treasury.

(By order)

NOTIFICATION.

No. 123.—In exercise of the powers conferred by section 29 of the Cochin Debt Conciliation Regulation, XXVI of 1112, Government are pleased to issue the following rules:—

Rules.

1. (1) These rules may be called the Cochin Debt Conciliation Rules 1112.
- (2) They shall come into force on 3rd Edavam 1112 (14th June 1937).
2. In these rules,—
 - (a) "the Regulation" means the Cochin Debt Conciliation Regulation, XXVI of 1112.
 - (b) "Board" means a Board established under the Regulation; and
 - (c) "section" means a section of the Regulation.
3. (1) The quorum necessary for the transaction of business at a meeting of a Board shall be two, of whom one shall be the Chairman.
- (2) The Chairman shall preside at every meeting of the Board, and shall regulate the course of all business.
4. (1) If any member of a Board other than the Chairman is a party to, or personally interested in, any application before the Board, he shall withdraw from the Board during the hearing of such application and shall take no part in its determination.
- (2) If the Chairman is a party to, or personally interested in, any application before the Board, the Chairman shall report such fact to the Diwan Peishkar and the Diwan Peishkar shall transfer the application to another Board for disposal.
5. (1) The Head-quarters of a Board shall be the Head-quarters of the officer who is its Chairman or if the Chairman is a non-official, such place as may be fixed by Government.
- (2) The Board shall ordinarily sit for the transaction of its business at its Head-quarters, but may sit at such other place as may be fixed by its Chairman. The Chairman shall fix the time for each meeting. In fixing the place and time for meetings, the Chairman shall have regard to the convenience of the Board and of the parties.
- (3) The Board may adjourn its proceedings as may be deemed desirable for the proper transaction of its business.
6. Applications under section 4, notices under sections 8 and 10 and certificates under section 18 shall be in such of the forms in Appendix I to these rules as may be applicable.
7. Every application under the Regulation shall be presented at the office of the Board, during office hours, by the applicant in person or by an agent authorised by him in writing, to the Chairman or, during his absence, to the person authorised by the Chairman to receive such application on his behalf.
8. If applications for the settlement of the debts of the same debtor are made to more than one Board, the Diwan Peishkar shall call for the applications from the different Boards and decide which Board can most conveniently deal with all such applications, and transfer for disposal by such Board all such applications presented to the other Boards.
- Pending such decision by the Diwan Peishkar no further proceedings shall be taken in respect of the applications by any of the Boards.
9. Every application under section 4 shall be stamped with a Court-fee stamp of the value of eight annas.
10. The proceedings of the Board shall be recorded in English or Malayalam as the Chairman may, in individual cases, decide.
11. In making an enquiry under the Regulation, the Board may examine orally any party, or any other person supposed to be acquainted with the matter under enquiry or any fact relevant thereto, and the Chairman shall reduce to writing the substance of such examination.

Such party or other person shall be bound to answer truly all questions relating to such matter or fact put to him by the Board other than questions the answers to which would expose him to a criminal charge or to a penalty or forfeiture.

12. The written statements filed by parties and the substance of the examination of parties and other persons, reduced to writing under rule 11, shall form part of the record.

13. All certificates granted by the Board shall be signed by the Chairman and shall be dated and sealed with the seal of the Board.

14. A copy of the notice under sub-section (1) of section 10 shall be served on each known creditor. A copy shall also be posted on the notice board of the Taluk Office in each of the taluks where the debtor has property and of the office of the board.

A copy shall also be posted in a conspicuous place in the village where the debtor ordinarily resides and in each of the villages in which any immovable property in which the debtor has any saleable interest is situated.

15. Every summons issued under the Regulation shall be in writing and shall require the person summoned to appear at a stated time and place and shall specify whether his attendance is required for the purpose of giving evidence or to produce a document or for both purposes and any particular document, the production of which is required, shall be precisely specified.

16. Any person summoned merely to produce a document shall be deemed to have complied with the summons, if he causes such document to be produced without attending personally to produce the same.

17. (1) The service of summons under the Regulation on any person may be effected—

- (a) by giving or tendering it to such person; or
- (b) if such person is not found, by leaving it at his last known place of abode or business, or by giving or tendering it to some adult member of his family or his authorised agent; or
- (c) if the address of such person is known to the Board, by sending it to him by post or anchal registered; or
- (d) if none of the means aforesaid is available, by affixing it in some conspicuous part of his last known place of abode or business.

(2) When the serving officer delivers or tenders a copy of the summons to the person concerned personally or to an agent or other person on his behalf, such officer shall require the person to whom the copy is delivered or tendered to sign an acknowledgment of service endorsed on the original summons.

(3) The serving officer shall, in all cases in which the summons has been served, add or cause to be added to the original summons an endorsement or annexure stating the date when, and the manner in which, the summons was served and the name and address of the person (if any) identifying the person served or his place of abode or business and witnessing the delivery, posting or tender of the summons.

(4) All processes issued by the Board shall be served through the agency of the revenue establishment.

18. When the person whose evidence is required is unable, from sickness or infirmity, to attend before the Board issuing the summons, or is a person whom by reason of rank or sex it may not be proper to summon, the Board issuing the summons may, of its own motion or on the application of the person whose evidence is required, dispense with his appearance, and order him to be examined by a person deputed by the Board for the purpose.

19. Where the person whose attendance is required is a public officer or is the servant of a Railway Company or local authority, the officer issuing the summons may, if it appears that the summons may be most conveniently so served, send it by registered post or anchal, prepaid for acknowledgment, for service on the person whose attendance is required to the head of the office in which he is employed together with a copy to be retained by that person.

20. (1) A party who desires the attendance of a witness either to give evidence or produce a document shall deposit with the Board—

(a) in Court-fees stamps, process fees in accordance with the scales prescribed in the Civil Rules of Practice, and

(b) in cash, allowances for travelling to and attending at Court in accordance with the scales laid down in the Civil Rules of Practice.

(2) If the party required to make such deposits fails to do so within 15 days from the date of his application for the issue of process such application shall be dismissed. But he may within one month of such dismissal apply to have the dismissal set aside and the Board may, in its discretion, restore the application and deal with it.

(3) When the Board causes the attendance of a witness of its own motion and not at the instance of a party, the Board shall pass such orders, as it thinks fit, as to the payment of expenses to the witness and as to the party or parties by whom such expenses are to be borne.

21. (1) The stamp duty on an agreement drawn up under sub-section (2) of section 14 shall be paid by the debtor.

(2) The cost of registering the agreement shall be paid by the creditors who are parties to it, the amount payable by each creditor being proportionate to the compounded debt stated to be payable to him under the agreement. If any creditor commits default in paying his share of such cost, it shall be recoverable from him as an arrear of land revenue.

22. Every application for a copy shall be addressed to the Chairman. The rules regarding grant of certified copies contained in the Civil Rules of Practice shall be followed in granting copies of the records maintained by a Board.

23. (1) The following registers and books shall be maintained by a Board:—

- (a) Register of applications.
- (b) Register of certificates.
- (c) (i) Process register.
- (ii) Nominal Roster of Process Servers.
- (d) Diet-money register.
- (e) Register of copy applications.
- (f) Receipt Book (in duplicate foils).
- (g) Register of contingent expenditure.
- (h) Cash book.
- (i) Remittance register.

These registers and books shall be maintained in the forms prescribed in Appendix II to these rules.

(2) After the close of each year, the registers and books specified in sub-rule (1), after the entries relating to pending cases have been transcribed into new registers and books, and the records relating to completed proceedings of cases shall be transferred to the Diwan Peishkar.

(3) The registers, books and records aforesaid shall be preserved for the periods specified below against each:—

- (a) Registers and books—6 years;
- (b) Records relating to cases:
 - (i) dismissed under section 9—2 years;
 - (ii) dismissed under section 17—2 years;
 - (iii) in which certificates have been granted under section 18 (1)—20 years; and
 - (iv) which have resulted in an agreement—3 years after the date of payment of the last instalment.

24. Each Board shall submit through the Diwan Peishkar to the Government a monthly progress return in Form No. VI in Appendix I to these rules.

25. Each Board shall submit every year, through the Diwan Peishkar, an annual report on the working of the Regulation during the previous year so as to reach the Huzur Secretariat not later than the 15th of Thulam. Such report shall indicate—

- (i) progress of work and results achieved;
(ii) difficulties experienced in working the Regulation;
(iii) amendments, if any, that appear to be necessary to the Regulation or the rules; and
(iv) such statistics or other information as may be prescribed, from time to time, by the Government.

26. The Chairman or a member of the Board, if a non-official, shall be entitled to draw travelling allowance for any journey performed by him in connection with his duties as such Chairman or member at the following rates:—

Journeys by rail—One second-class fare.

Journeys by road—Annas four a mile.

Daily allowance for halts—Rupees two per day.

The drawal of allowances will be subject to the conditions laid down in the Cochin Service Regulations.

27. The Chairman or a member of a Board, if an official, shall be entitled to draw for any journey, travelling allowance and halting allowance at rates to which he would be entitled by virtue of his official position.

28. The Diwan Peishkar shall be the controlling officer empowered to countersign the travelling allowance bills of the Chairman and members of a Board.

29. The Government may provide for each Board such ministerial and menial staff as it may from time to time require, and may regulate the conditions of their employment and fix the salaries and allowances payable to them.

30. In all administrative matters, the Board shall be subordinate to the Diwan Peishkar who shall be subject to the control of the Government. The Diwan Peishkar shall generally control the staff of the Board but may, with the concurrence of the Government delegate to the Chairman of a Board such of his powers under this rule as he may see fit. But the Chairman of the Board shall be competent to appoint and punish the menial establishment.

31. The Diwan Peishkar shall inspect the Board's records at least once a year, but he may inspect them more frequently if he sees fit to do so. He shall submit a report to the Government on the results of such inspection, once a year.

32. In every case in which a debtor or a creditor is a minor or a person of unsound mind, the procedure laid down in Order XXXII of the First Schedule to the Cochin Code of Civil Procedure, 1111 shall be applied.

APPENDIX I.

(Referred to in rules 6 and 24.)

FORM No. I.

Form of application to be made by a debtor under section 4 (1) of the Cochin Debt Conciliation Regulation:

To

The Debt Conciliation Board,

Under section 4 (1) of the Cochin Debt Conciliation Regulation, I.....

son of....., caste....., resident of.....taluk, beg to apply for settlement of my debts.

2. The amount and particulars of all claims against me are as follows:—

Name, residence and full address of the creditor	Amount of debt	Particulars of debts including date of commencement, rate of interest, whether secured, and if so, how, etc.
(1)	(2)	(3)
Total..		

3. I hereby declare, that I am unable to pay the debts owned by me as shown above and that I have not made any application to any other board.

4. The amount and particulars of my property including claims due to me are as follows:—

(1) Immovable property—

Specification of property, with boundaries where necessary	Name of village with survey numbers owned	Description of field	Extent and assessment or rent	Income derived	Market value	Details of any mortgage lien or charge subsisting thereon	Remarks
1	2	3	4	5	6	7	8
Lands. Houses.							

(2) Movables, including cash—

Description, and the place where they are kept	Value	Details of any mortgage lien or charge subsisting thereon
--	-------	---

(3) Claims due—

Name and address of debtor	Amount due	Particulars of debts including date of commencement, rate of interest, whether secured and if so, how, etc.	Nature of the document evidencing the claim and in whose possession
----------------------------	------------	---	---

.....
Signature of the applicant.

Verified that the contents of paragraphs.....of the application are true upon the personal knowledge of and those in paragraphs.....upon information received and believed to be true by, the undersigned.

.....
Signature of the applicant.

FORM No. II.

Form of application to be made by a creditor, under section 4 (2) of the Cochin Debt Conciliation Regulation.

To

The Debt Conciliation Board,

Under section 4 (2) of the Cochin Debt Conciliation Regulation, I.....

son of,...., caste....., resident of.....taluk beg to apply for the settlement of my claims against.....who is my debtor I declare that I have not made any application to any other board in respect of these claims.

2. The particulars required by section 6 of the Regulation are as follows:—

Name, residence and full address of the creditor	Name and full address of the debtor against whom the creditor has claims	The amount of claims due to the creditor	Particulars of the claims including the date of commencement, rate of interest, whether secured and if so, how

Total ..

.....
Signature of the applicant.

Verified that the contents of the application are true upon the personal knowledge of the undersigned.

.....
Signature of the applicant.

FORM No. III.

Form of notice to creditors of debtor under section 8 (2) of the Cochin Debt Conciliation Regulation.

Notice is hereby given to that an application under section
 (4) 1 of the aforesaid Regulation has been submitted for the settlement of the debts of.....
 4(2) and will be examined by the Board together with any objections that may be preferred by any person interested at.....at.....o'clock on
 the.....day of.....III
 Dated the.....of.....III

(Seal of the Board.)

Signature of the Chairman,
 Debt Conciliation Board
 or
 some other person authorised in this behalf.

FORM No. IV.

Form of notice under section 10(1) of the Cochin Debt Conciliation Regulation.
 Whereas son of..... caste of taluk
 debtor
 creditor has submitted an application under section 4 of the aforesaid Regulation for the settlement of the debts of....., son of....., caste.....of.....
taluk.

Whereas the Board is of the opinion that it is desirable to attempt to effect a settlement between the said debtor and his creditors, you as one of the creditors
 all the creditors to whom the said debtor is indebted are hereby required to submit to the Board a statement in writing on or before the..... at the Board's office at.....of all debts owed to you
 them by the said debtor.

The Board will scrutinize this statement at 11 a. m. on.....day..... when you should appear before the Board.

2. You
 All the creditors are also required to furnish along with such statement, full particulars of all such debts and shall at the same time produce all documents including entries in books of account on which you
 they rely to support your
 their claims, together with a true copy of every such document.

Attention is invited to section 10(2) of the said Regulation under which every debt of which a statement is not submitted to the Board in compliance with this notice shall be deemed for all purposes, and all occasions, to have been duly discharged.

Attention is also invited to section 11(3) of the said Regulation, under which if any document which is in your possession or under your control is not produced by you, the document will not be admissible in evidence against the debtor in any suit brought by you or by any person claiming under you for the recovery of the debt.

The settlement in this case will take place at.....at 11 a. m. on the day of.....III.....when you should appear before the Board.

Dated the.....day of.....III

(Seal of the Board.)

Signature of the Chairman,
 Debt Conciliation Board
 or
 some other person authorized in this behalf.

FORM No. V.

Form of certificate under section 18(1) of the Cochin Debt Conciliation Regulation.

This is to certify that during proceedings No.of..... under the Cochin Debt Conciliation Regulation, between (debtor) on one hand and of... (creditor) on the other hand, for the settlement of an alleged debt of Rs..... the said creditor has in our opinion, refused a fair offer of settlement made by the said debtor, which the said creditor ought reasonably to have accepted.

2. The following particulars of the debt were furnished by the said creditor under section 10(1) of the Regulation.

(Here enter particulars.)

Dated,the.....day of.....III

(Seal of the Board.)

Signature of the Chairman,
 Debt Conciliation Board.

(c)
Register of copy applications.

1	Petition number
2	Date of receipt
3	Name and address of the applicant
4	Description of record copy of which is required
5	Number and value of court-fee stamps affixed to the application for search for the records
6	Orders of the head of office as to whether copies may be granted or not with date of order
7	Total number of words to be copied
8	Total number of "three-anna" stamp papers required at 175 words a paper or the amount of fees payable in cash
9	Date on which information of the (a) number of stamped papers required, or (b) the fee to be paid or (c) the postage labels required or (d) the search fee required was given to the applicant
10	(a) Number of stamped papers, or (b) amount of cash or (c) postage labels deposited, with the initials of the head ministerial officer and date
11	Name of copyist to whom they were handed over for copying and his initials in token of receipt
12	When copy was ready
13	Name of examiner and the date on which the copy was examined with his initials
14	When copy delivered or sent by post or destroyed
15	Signature of applicant when delivered in person
16	Signatures of the copyist and examiner in token of having received the fee paid in cash
17	Number of stamped papers copied and compared and number returned unused with initials of the head ministerial officer and date in each case
18	Remarks (here enter the month in which each item is billed for with initials of the head ministerial officer and date)

(f)
Receipt book.
In the office of the Debt Conciliation Board of
RECEIVED THIS day of
the sum of Rs. being.

from son of

Chairman.

(g)
Register of contingent expenditure.

1	Date
2	To whom paid. Appropriation for each head
3	Number of sub-vouchers. contingent abstract
4	Sub-head and detailed account heads Sub-divisions of sub-heads and detailed account heads as may be convenient. If the appropriation be not ordinarily allotted among the sub-divisions of a sub-head or detailed account head they should be linked by a brace and the amount placed below. Each of these spaces represents a money column
5	Sub-head and detailed account heads Sub-divisions of sub-heads and detailed account heads
6	Description Amount
7	Total of each contingent abstract
8	Total of each month's bill
9	Date of detailed bill
10	Date of admission with initials
11	Remarks

Ra. A.P.

(h)

*Cash Book.*Debt Conciliation Board of
Year.

Dr.

Cr.

Date	Folio in ledger	Heading of item	Details of item	Amount	Date	Folio in ledger	Heading of item	Details of item	Amount
1	2	3	4	5	6	7	8	9	10
				Rs. A. P.					Rs. A. P.

(i)

Remittance Register.

CHALAN.

CHALAN.

CHALAN.

No. Debt Conciliation Board of
To The Officer in charge
of the Treasury at
Received Rs. from
to the account
of No. of
on the file of this Board
Dated

Debt Conciliation Board of
To The Officer in charge
of the Treasury at
You are requested to re-
ceive the sum of Rs.
from
and credit the same
to the account of
No. of on the file
of the Board
Dated

No. Treasury Office
Received this
day of
and entered as No. of
in the register of
Civil Court's Deposit of the
sum of Rs. from
to the credit of the
account of
No. of on
the file of the Debt Con-
ciliation Board of
Dated

Initials of the Chairman of
the Board.

Signature of the Chairman
of the Board.

Signature of the Officer
in charge of the Treasury.

(By order)

The Huzur Secretariat,
Law and Justice Department,
11th June 1937.
29th Edavam 1112.

T. S. NARAYANA AYYAR,
Secretary to Government.

NOTIFICATION.

No. 124.—In exercise of the powers under section 3 of the Cochin Debt Conciliation Regulation, XXVI of 1112, Government are pleased to establish a Debt Conciliation Board consisting of the following members for the area comprising the three taluks of Cochin-Kanayannur, Cranganur and Mukundapuram.

- (1) M. R. Ry. M. P. Cherian Avl., B. A., B. L.,
Retired Joint Secretary to Government Chairman.
- (2) M. R. Ry. V. Achyuta Menon Avl., B. A.,
Retired Anchal Superintendent Member.
- (3) M. R. Ry. K. S. Kasthuri Ayyar Avl., B. A., B. L.,
Chief Court Vakil Member.

The Head-quarters of the Board will be at Ernakulam. The Board will sit for two consecutive days in the week in each of the three centres, viz., Ernakulam, Cranganur and Irinjalakkuda. Petitions from the respective taluks will be considered by the Board when it sits at the Head-quarters of the taluks.

The term of the Board will at present be for one year from the date of appointment.

(By order)

The Huzur Secretariat,
Law and Justice Department,
11th June 1937.
29th Edavam 1112.

T. S. NARAYANA AYYAR,
Secretary to Government.

X9(U) (223)
97

THE COCHIN TENANCY AND KUDIYIRIPPU BILL.

Objects and Reasons.

In Cochin cultivating Verumpattomdars are rack-rented and do not get even the bare maintenance out of cultivation. Such tenants require relief and should be given some permanency in their tenure. Men should be given relief from arbitrary eviction of dwelling houses (Kudiyirippus). The object of this Bill is to give relief in these cases. The Bill is an adaptation of the Malabar Tenancy Act, 1929, with slight alterations.

Whereas it is necessary and expedient to define, declare, alter, and amend to the extent in the manner and for the purposes hereinafter appearing, the law relating to the cultivating tenants and Kudiyirippus in Cochin, it is hereby enacted as follows:

Preamble.

1. (a) This Regulation may be called the Cochin Cultivating, Tenancy and Kudiyirippu Regulation, of 1933.
- (b) It extends to the whole of Cochin State.
- (c) It shall come into force at once.
2. Nothing in this Regulation shall apply to Exemption.

(1) Lands transferred by a landlord for felling timber or for planting tea, coffee, rubber, cinchona, or any other special crop prescribed by a rule made by the Government or the erection of any building for the purpose of or ancillary to the cultivation of such crop, or the preparation of the same for the market, or

(2) any building owned by a landlord including a house, shop, or warehouse, and the site thereof together with the garden or land appurtenant thereto.

CHAPTER I—DEFINITIONS.

3. In this Regulation unless there is something repugnant in the subject or context—

(a) "Agricultural year" means the year commencing with the 1st of Kumbham in any Malayalam year and ending with the last day of Makaram of the following Malayalam year or the year between such other dates as the Government may specify in that behalf, by notification in the Cochin Government Gazette for the whole or any part of Cochin.

(b) "Court" means the Civil Courts having jurisdiction to entertain a suit for the possession of a holding or part thereof to which any legal proceeding under this Regulation relates.

(c) "Cultivate" with its grammatical varieties means cultivate either solely by one's own labour or with the help of the labour of the members of one's tarawad or family, or of hired labourers or both, or direct, or supervise cultivation by such members, or hired labourers, jointly or separately, provided that such members, or hired labourers, have not agreed to pay or take any fixed proportion of the produce of the land, they cultivate as compensation for being allowed to cultivate it or as remuneration for cultivating it.

(d) "Dry land" means a land which is neither a wet land nor a garden land.

(e) "Eviction" means the recovery of possession of land from tenant.

(f) "Fair rent" means rent as determined in accordance with the provisions of Chapter II.

(g) "Garden land" means any land used principally for growing fruit-bearing trees.

(h) "Holding" means a parcel or parcels of land held under a single engagement by a tenant from a landlord and shall include any portion of a holding as above defined which the landlord and the tenant may agree to treat as a separate holding.

(i) (1) The word "Improvement" shall have the same meaning as it has in the Cochin Tenancy Regulation.

(2) "Improvement" means Chapter II of the Cochin Tenancy Regulation.

(j) "Intermediary" means any person who not being a jenmi has an interest in land, and is entitled by reason of such interest to possession thereof but has transferred such possession to others.

(k) "Jenmi" means a person entitled to the absolute proprietorship of land and includes a trustee in respect thereof.

(l) (1) "Kudiyirippu" means and includes the site of any residential building, the site or sites of other buildings appurtenant thereto, such other lands as are necessary for convenient enjoyment of such residential building and the leaseholds attached thereto.

(2) "Separate Kudiyirippu" means a Kudiyirippu which is the sole property comprised in a holding.

(3) "Separate Kudiyirippu" means a Kudiyirippu which is included with other property in a holding and which is not necessary for the convenient enjoyment, as usual, of any other part of the holding.

(m) "Landlord" means a person under whom a tenant holds and to whom he is liable to pay rent and includes a jenmi.

(n) "Melpattom" means the transfer by the landlord of part of his interest in any land held by his tenant by which the transferee is entitled to evict such tenant.

(o) "Pay" with its grammatical variations includes deliver.

(p) "Prescribed" means prescribed by rules made under this Regulation.

(q) "Rent" means whatever is lawfully payable in money or in kind or in both, to a person entitled to the use or occupation of a land by another, permitted by the person so entitled, to have the use or occupation of the said land for any purpose on the understanding, express, or implied, that the person so permitted, would pay consideration for such use or occupation.

(r) "Tenant" means any person who has paid or has agreed to pay rent, or other consideration for his being allowed by another, to enjoy the land of the latter and includes an intermediary, a Kanamdar and a Verumpattomdar, of any description.

(s) (1) "Verumpattomdar" means a tenant other than a Kanamdar of a holding, for agricultural purposes, which includes wet lands and may or may not include other lands.

(2) "Cultivating Verumpattomdar," in respect of a holding means any Verumpattomdar who not being a jenmi or any intermediary of that holding has expressly or impliedly contracted to cultivate the lands in that holding either as a tenant-at-will or during a fixed term and actually cultivates the same.

(t) "Wet lands" means lands which are adapted for the cultivation of paddy.

CHAPTER II—FAIR RENTS.

4. In this Chapter—
Interpretation clause.

(a) "Seed required" means the quantity of seed customarily deemed to be required and

(b) "Gross produce" in respect of wet lands means the produce obtained after paying the expenses of reaping.

5. Fair rent in the case of dry lands converted into wet by the tenants' labour shall be—

(a) for a period of twenty years from the year in which the first wet crop is raised on the land, one-fifth of the difference between the annual gross paddy produce of the land and three times the seed required for the said land for an agricultural year, and

(b) after the expiration of the said period of 20 years one-fifth of the difference between the annual gross paddy produce of the land and two and a half times the seed required for the said land for an agricultural year.

6. In the case of wet lands not falling under the previous section, fair rent, shall be—

Two-thirds of the difference between one-third of the gross paddy produce of the land for the 3 years immediately previous to the date on which fair rent is to be ascertained and two and a half times the seed required for the said land for an agricultural year:

Provided that—

(i) if in any particular year, no crop at all is raised on a land registered in the registers of Government as a single crop land, the produce shall be deemed to be the estimated produce of a single paddy crop; and

(ii) in the case of the lands registered as double crop lands in the said registers, accounts shall be taken as though two paddy crops have been harvested, irrespective of the number and the kind of the crops raised and of the fact that no crop whatever is raised in any particular year on such lands.

7. (1) In the case of garden lands, fair rent shall be a share ascertained under sub-sections 2, 3 and 4 of this section of one-third of the gross produce for the three years, immediately previous to the date on which fair rent is to be ascertained.

(2) As regards cocoanut trees in respect of which the landlord is bound to pay compensation in case of eviction, the share shall be one-fourth of the said one-third of the gross produce and as regards trees in respect of which he is not bound to pay such compensation the share shall be one-half of the said one-third:

Provided that where a cocoanut tree has been let for tapping, its produce for the purpose of this sub-section during the said 3 years shall be deemed to be the same as the produce during the three years of tree of a similar description and with similar advantages in the neighbourhood which has not been let for tapping.

(3) As regards areca trees and pepper vines in respect of which the landlord is bound to pay compensation in case of eviction, the share shall be one-fourth of the said one-third of only the nuts and pepper included in such produce and as regards trees and pepper vines in respect of which he is not bound to pay such compensation the share shall be one-third of the said one-third.

(4) As regards trees and vines other than cocoanut, areca and pepper referred to in sub-sections 2 and 3 of this section in respect of which the landlord is bound to pay compensation in cases of eviction the share shall be one-fourth of the said one-third of the gross produce or income and as regards trees and vines in respect of which he is not bound to pay such compensation the share shall be one-half of the said one-third.

(5) Nothing shall be payable for the minor produce of arecanut trees such as leaves, fibre, etc., whether such compensation is payable or not in respect of the said trees.

8. Fair rent in the case of dry lands shall be three times the assessment payable in respect thereof per annum.

Fair rent of dry lands.

9. (a) In the case of lands situated within the limits of any Municipality or town and not built or planted upon or on which no crop is grown the fair rent shall be the rent paid or agreed to be paid in respect of similar lands of the same extent in the neighbourhood;

Fair rent of lands in the Municipal limits or towns.

(b) in the case of other lands situated within the said lands the fair rent shall be determined under sections 5 to 8 or the fair rent determined under sub-section (a) of this section, whichever is higher.

(c) The Government shall notify what area or locality shall be regarded as towns within the meaning of this section.

CHAPTER III—CULTIVATING VERUMPATTOMS.

10. Notwithstanding any contract to the contrary entered into whether before or after the coming into force of this Regulation, every cultivating verumpattomdar, shall have fixity of tenure, in respect of his holding as in hereinafter provided and shall not be evicted therefrom except as provided in this Regulation.

Cultivating verumpattoms right to fixing of tenure.

11. Any cultivating verumpattomdar or his immediate landlord may apply to the court in the form prescribed for fixing the extent of the holding in fair rent in respect of it, the instalments if any, in which it shall be payable and the date or dates when the fair rent or the instalments thereof shall be payable.

Application to court for fixing extent of holding fair rent.

12. On the receipt of an application under section 2, the court shall issue notice to all the parties concerned and after inquiry determine by an order—

Procedure on receipt of the application.

- i. The extent of the holding,
- ii. The fair rent that is payable in respect of it,
- iii. The instalments, if any, in which the fair rent shall be payable, and
- iv. The date or dates on which the said rent or instalments shall be payable.

13. (1) A landlord may, at any time, by notice in writing, call upon his cultivating verumpattomdar at the latter's option

- (a) to pay one year's fair rent of the holding in advance, or
- (b) to furnish security for the said fair rent, or
- (c) to pay a portion of the said fair rent in advance and furnish security for the balance.

Security for one year's rent.

(2) If, within a period of six months from the date of serving the notice upon him under sub-section (1) the cultivating verumpattomdar fails to pay the advance or furnish the security demanded by the landlord, the landlord may apply to the court in the form prescribed for an order to direct the cultivating verumpattomdar at the latter's option

- (a) to pay one year's fair rent of the holding in advance, or
- (b) to furnish security for the said fair rent, or
- (c) to pay a portion of the said fair rent in advance and furnish security for the balance.

(3) On receipt of an application under sub-section (2) the court shall issue notice to the cultivating verumpattomdar and if satisfied after inquiry that tenant has not complied with any of the provisions of sub-section (2) order the cultivating verumpattomdar at the latter's option

- (a) to pay one year's fair rent of the holding in advance, or
- (b) to furnish security for the said fair rent, or
- (c) to pay a portion of the said fair rent in advance, and furnish security for the balance or within such date as the court may fix.

(4) Where the cultivating verumpattomdar has already paid a portion of one year's fair rent of the holding in advance, or furnished security for a portion of the said fair rent, the provisions of sub-sections (1) to (3) shall apply in respect of the balance of such fair rent.

(5) Any advance of fair rent paid by a cultivating verumpattomdar to his landlord whether before or after a demand under that section or deposited by him, for such payment under clause I of sub-section (4) of section 15, shall bear interest at 6% per annum from the date of payment or from the date of service of notice of such deposit through court as the case may be.

14. No suit for eviction of a cultivating verumpattomdar from his holding shall be at the instance of his landlord except on the following grounds:

Grounds of eviction of cultivating verumpattomdar.

(1) That the tenant has wilfully denied the title of the landlord before such suit.

*Explanation:—*A denial of a landlord's title under a *bona fide* mistake of fact is not wilful within the meaning of this clause.

(2) That the tenant has intentionally and wilfully committed such acts of waste as are calculated to impair materially and permanently the value or utility of the holding for agricultural purposes.

(3) That the tenant has not paid within 3 months or the due date, the whole or any portion of the rent due in respect of the holding.

(4) That the tenant has collectively allowed a stranger to encroach on the holding or part thereof adversely to the interest of the landlord.

(5) That the tenant has not complied with the order of the court under sub-section 3 of section 13: Provided that in cases of falling under clause IV where only a part of the holding has been encroached upon, the eviction, shall be from such part of the holding only.

15. In the case of any transfer of the interest of the tenant, the landlord shall be given the first option to get the transfer on payment of the compensation for the improvements, as well as the security amount, if any, due to the tenant from the landlord, any transfer in violation of this shall be voidable at the option of the landlord.

Landlord given the first option on transfer.

16. (1) In any suit in which eviction is claimed on the ground specified in clause III of section 14 if, the tenant deposits in court, for payment to the plaintiff in the suit—

Tenant's right to sue for restoration of possession of land in certain cases.

I. The amount of rent due with interest thereon at the contract rate, if any;

II. interest on the principal amount of the rent due at 12 % per annum from the date of suit up to the date of deposit;

and III. the costs of the plaintiff up to that date; the court shall dismiss the suit.

(2) In any suit in which eviction is claimed on the ground specified in clause VII of section 14, if the tenant

(i) (a) deposits in court for payment to the plaintiff in suit, one year's fair rent in the holding in advance or furnishes security for the same or deposits in court for such payment a portion of such fair rent and furnishes security for the remainder, or

(b) where he has already paid a portion of the said fair rent, or furnished security for a portion thereof, deposits in court for the payment to the plaintiff the balance of the said fair rent or furnishes security for such balance or deposits in court for such payment a portion of such balances and furnish security for the remainder, and

(ii) deposits in court for payment to the plaintiff the costs of the latter up to the date of deposit, the court shall dismiss the suit.

CHAPTER IV.—RENTS.

17. Every cultivating verumpattomdar shall be bound to pay to his immediate landlord fair rent as fixed under section 12:

Cultivating verumpattomdar's liability to pay fair rent.

deemed to be fair rent for a period of six years, from such date.

Provided that in the case of a cultivating verumpattomdar's holding exists at the date on which this Regulation comes into force, the rent payable on such holding, shall be

18. (1) As between any landlord and cultivating verumpattomdar the latter shall be liable for

Liability for revenue as between landlord and cultivating verumpattomdar.

(a) the revenue payable to the Government as also the local cesses, on any land on which, no rent is payable under this Regulation and

(b) any special charges, leviable by Government for special or additional crops, raised on the wet lands.

(2) In the case of lands, within the limits of a Municipality in respect of which the landlord has obtained fair rent as ascertained under section 9, he shall bear the tax levied by Municipality for such land to the extent such rent is higher than what is payable therefor under sections 5 to 8; but otherwise the landlord and the tenant shall bear such tax in equal shares.

Liability for Municipalities.

19. (1) At any time after the expiry of 12 years from the date of an order fixing the fair rent in respect of a holding or from the date of the last confirmation or revision of such order under this section, the cultivating verumpattomdar or his immediate landlord shall be entitled to apply in the form prescribed to the court for revision of such order so far as the fair rent is concerned.

Revision of rent.

(2) On receipt of such an application the court shall after notice to the landlord or the cultivating verumpattomdar as the case may be determine the fair rent and confirm or revise the order.

(3) If the order is revised, the cultivating verumpattomdar, shall be bound to pay rent according to the revised order from the beginning of an agricultural year next after the date of such revision.

20. Notwithstanding any contract to the contrary, express or implied, whether entered into before or after the coming into force of this Regulation no cultivating verumpattomdar shall be liable to pay to his landlord anything more or anything else, than the fair rent provided by this Regulation.

Invalidity of claims or dues other than fair rent.

CHAPTER V.—KUDIYIRIPPU.

21. In any suit for eviction relating wholly or in part to a Kudiyirippu which has been, in the continuous occupation of a tenant or the members of his family, such tenant shall be entitled to offer to purchase the rights in the Kudiyirippu of the landlord who seeks, to evict him, at the market price on the said date.

22. (1) An offer under section 21 shall be in writing and shall contain the particulars prescribed.

Procedure to enforce the offer.

(2) Notice of such offer, with a copy thereof, shall be served, on the landlord at the expense of the tenant, fixing a date for the landlord to accept or decline the offer.

(3) After such notice has been served on the landlord.

(a) If the landlord unconditionally accepts the offer, the court shall record such acceptance, and order the tenant to deposit in court the price specified in his offer, together with the arrears if any, of rent, michavaram, the revenue payable to the Government by the tenant, and the local cesses payable

Points to be determined by court on the offer.

by the tenant in respect of such Kudiyrippu, and on such deposit, the landlord shall be paid, the amount deposited and the suit in so far as it relates to the eviction from the Kudiyrippu shall be dismissed, and

(b) if the landlord, for any reason, does not unconditionally, accept the offer, the court shall decide whether the Kudiyrippu, is a separate or separate Kudiyrippu.

(4) If the decision under clause (b) of sub-section (3) is that the Kudiyrippu is separate, the court shall proceed further and determine the market price of the landlord's rights, as it stood on the date fixed for acceptance, of the offer by the landlord, and shall call upon the tenant to deposit the market price, so settled together with the arrears, referred to in clause (a) of sub-section (3) if any, on or before a date fixed by it in writing.

(5) Notwithstanding anything contained in sub-section (4) the court if it is satisfied, that the tenant is too poor to pay the market price, in a lump sum, may dispense with the deposit, of the market price, and order that the said price, be paid to the landlord with interest at 6 per cent per annum in as many annual instalments, not exceeding 12 as the court may fix having regard to the means of the tenant, on condition that sufficient security is furnished, for the regular payment of instalments.

23. If the decision under sub-section (3) of section 22 is that, that the Kudiyrippu is neither separate, nor separate, or if the deposit called for, under sub-section (4) of the said section is not made or the security called for under sub-section (5) of that section is not given on or before the date so fixed the court shall dispose of the suit, for eviction referred to in section 22 as if no such offer has been made.

24. Upon the tenant making such deposit under sub-section (4) of section 22, or on security being given, under sub-section (5) of that section together with the deposit of the arrears referred to in clause (a) of sub-section (3) of that section, the suit referred to in section 21 in so far as it relates to the Kudiyrippu shall be dismissed.

25. The court in which a deposit is made under this Chapter may, in its discretion at the instance of any person interested in the sum deposited, order that such deposit be invested in the manner referred to in section 30 of the Land Acquisition Regulation, II of 1970.

26. The order or decree under section 24 shall operate as a sale to the tenant of the landlord's rights in the Kudiyrippu subject to the condition that in the event of any sale of a Kudiyrippu subsequent to the said order or decree by the tenant, his heirs, executors, representatives-in-interest or assigns or in execution of a decree against them, or by a receiver in insolvency, the person who, but for the provision of this section would be entitled to the landlord's rights in the said property, at the time of such subsequent sale shall be entitled to claim pre-emption.

CHAPTER VI.—MISCELLANEOUS.

27. Subject to the provision of this Regulation all rights which a tenant has in his holding shall be heritable and alienable.

28. Any tenant whose holdings has been granted on melcharth may when sued for eviction avail himself of the provision of Chapter III.

29. Arrears of rent due to a landlord together with interest, if any, payable on the same shall be a charge, on the interest of the person, from whom they are due, in the holding in respect of which they are due as at the time of the creation of such interest, and such charge shall have priority over

all other charges, on the same except the charge for the revenue, and any dues thereon, payable to Government, or a local authority and made a charge thereon, by any law for the time being in force.

30. A cultivating verumpattomdar may, at the end of any agricultural year, surrender his holding to his immediate landlord by a registered document.

Surrender of holdings.

Such landlord shall not be bound to accept the surrender, unless notice has been given in writing to him, by the tenant of his intention to do so, three months, prior to the date of the expiry of the agricultural year, and unless it be in respect of the entire holding, and the whole of the arrears of rent is also tendered, at the time of the surrender. Nor shall the landlord be bound to pay the value of the improvement, which he would have been otherwise bound to pay.

31. Every deed by which a lease is created or renewed and its counter part, if any, shall contain

Contents of lease.

- (a) the name, if any, and description and extent of the holding,
- (b) the Government revenue, and local cesses, if any, payable in respect of the holding,
- (c) the amount of rent payable in respect of the holding,
- (d) the relation that any parah or other measure according to which, the rent has to be paid, bears, to the capacity of the standard parah.

32. (1) Every tenant paying any rent, shall be (1) entitled to receive and the landlord shall be bound to grant a receipt specifying

Tenant's right to obtain receipt and forms of such receipt.

- (a) a description of the holding, in respect of which it was paid,
- (b) the date of payment,
- (c) the amount paid,
- (d) the period to which the amount paid relates, and
- (e) the arrears, if any, remaining due from the tenant after the said payment.

A reference to the date and registration number of the document under which the holding is held and also the name of the registration district in which the said holding situate shall be deemed to be a sufficient description of the holding, for the purposes of this sub-section.

(2) In the absence of the particulars, specified in clause (e) of sub-section (1) the burden of proving that the tenant is bound to pay any arrears of rent, which have accrued, previous to the date of receipt, shall be on the person, claiming such arrears.

(3) If any landlord, fails to grant a receipt, as provided under sub-section (1) the tenant shall be entitled to be sued, by money order, after deducting the charges for doing so,

- (i) the money, if the rent is payable in money,
- (ii) the money value of the rent, if it is payable in kind.

33. The stamp and registration charges for any lease-deeds, and for the counter part of such lease if any, shall be borne by the tenant.

(1) The procedure provided as regards suits in the Code of Civil Procedure shall be followed as far as, it can be made applicable in all proceedings relating to applications, under this Regulation.

Code of Civil Procedure to apply to Proceedings under this Regulation.

(2) Appeals shall be from orders, made under sections 12, 19, 22, 23 and 24, as if they were decrees in suits.

Appeals:

34. (1) The Diwan Peishkar shall, at the beginning of every Malayalam month, publish in the Cochin Government Gazette, the average market price of paddy, cocoanut, arecanuts, pepper and other produce, at each taluk head-quarters, or

Diwan Peishkar to publish list of prices.

at other prominent centres of each taluk for the month preceding, the date of publication.

(2) Where any rent payable under this Regulation is paid or is to be paid in money, in whole or in part, paddy, cocoanuts, arecanuts, pepper and other produce, shall be valued according to, the rates published under subsection (1).

35. Where the rent is payable in kind it shall in the absence of a contract to the contrary, be delivered at the landlord's granary, in the village in which the holding, is situated, or at such other granary, within 3 miles of the village, as may be provided in that behalf, by the landlord.

Place of delivery of rent payable in kind.

36. Nothing in this Act shall affect the right of a jenmi, in any of his holdings

(1) to make irrigation channels, foot paths, roads and ways into adjacent and other holdings.

(2) to work laterite and other quarries, and

(3) to cut and remove the trees, or enjoy, the use of fruit trees and pepper vines, belonging to him: Provided that the tenant shall be entitled to a proportionate reduction of rent, if by the exercise of such right, his profits are decreased.

37. (1) The Government may make rules, to carry out all or any of the powers of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, they may make rules regulating the period of limitation for application under this Regulation, for which no period is specifically fixed therein.

(3) All rules made under this section shall be published in the Cochin Government Gazette and on such publication shall have the force of Law.

(Sd.) P. KUMARAN EZHUTHASSAN,

(True copy)

B. V. KRISHNANKUTTY MENON,

Secretary to the Council.

X9(J):6:(2222)

34

140

R. O. C. No. 587/40. Legis.

The following Bill, together with the Statement of Objects and Reasons, is published as ordered by the Dewan under Rule 31 of the Travancore Legislative Rules.

Huzur Cutcherry,
Trivandrum, 28th May 1940.

(By order)

M. K. NILAKANTA AIYAR,
Chief Secretary to Government.

THE TRAVANCORE DEBT RELIEF BILL.

CONTENTS.

Preamble.

Sections.

1. Short title, commencement and extent.
2. Definitions.
3. Application of the Act restricted to debts incurred before the 23rd day of Dhanu 1112.
4. Certain debts and liabilities not to be affected.
5. Applicability of the Act to usufructuary mortgages.
6. Applicability of the Act to transactions with a bank.
7. Government's power of exemption.
 1. Payment in instalments.
 9. Reduction of debts by payment in instalments within three years.
 10. Reduction of debts by payment in instalments within one year.
 11. Rate of future interest.
 12. Sales of immovable properties to be set aside in certain cases.
 13. Protection afforded to stranger auction purchaser, where sale is set aside under Section 12.
 14. Power of Court to decide doubts and disputes relating to payments under Section 8 or Section 9 or Section 10.
 15. Restrictions on the scope of the Act in certain cases.
 16. Repeal.

THE TRAVANCORE DEBT RELIEF BILL.

Whereas it is expedient to make certain provisions in relief of indebtedness: It is hereby enacted as follows:—

Preamble.
Short title, commencement and extent.

1. (a) This Act may be called the Travancore Debt Relief Act, 1111.

(b) It shall come into force at once.

(c) It extends to the whole of Travancore.

Definitions.

2. In this Act, unless there be something repugnant in the subject or context,—

(i) 'Bank' means a public company carrying on the business of banking at the commencement of the Act;

(ii) 'Chitty Debt' means a debt due from a foreman to a subscriber or from a subscriber to the foreman in respect of a chitty registered under the Travancore Chitties Act of 1094.

(iii) 'Debt' means any liability in cash or kind, whether secured or unsecured, due from any person whether payable under a decree or order of a Civil or Revenue Court or otherwise;

(iv) 'Debtor' means a person from whom a debt is owing and includes any person owning an interest in any property secured for the debt;

(v) 'Decree' includes an award made under Section 56 or an order passed under Section 51 of the Travancore Co-operative Societies Act, 1112 or the corresponding provisions of the Act repealed thereby

(vi) 'Interest' in relation to a debt includes any sum however described, payable to the creditor in excess of the principal;

(vii) 'Person' includes an undivided Hindu family, a marumakkathayam tarwad or tavazhi, but does not include a religious or charitable institution;

(viii) 'Public Company' means a public company as defined in the Travancore Companies Act, IX of 1114, or in the Indian Companies Act 1913, or in the Companies Act of any Indian State or Foreign Government;

(ix) 'Usufructuary mortgage' means a mortgage where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorises him to retain such possession until payment of the mortgage money, and to receive the rents and profits accruing from the property, or any part of such rents and profits, and to appropriate the same in lieu of interest or in payment of the mortgage-money or partly in lieu of interest and partly in payment of the mortgage-money.

Application of the Act restricted to debts incurred before the 23rd day of Dhanu 1112.

3. Subject to the provisions of Sections 4 to 7, this Act shall apply to all debts incurred before the 23rd day of Dhanu 1112 and remaining due at the commencement of this Act.

Explanation.— Any part of a debt which is found to be a renewal of a prior debt shall be deemed to be a debt contracted on the date on which such prior debt was incurred, and if such debt was contracted prior to the 23rd Dhanu 1112, it shall be treated as a debt to which this Act applies.

4. Nothing in this Act shall affect debts and liabilities falling under the following heads:—

Certain debts and liabilities not to be affected.

(a) any revenue, tax or cess payable to Our Government or any other sum due to them by way of loan or otherwise,

(b) any tax, cess, fees or other payment due to any Municipality, Village Panchayat or Village Union or other local authority,

(c) any sum due to the Sree Pandaravaka or Sree Padom,—

(d) any liability arising out of any transaction in the nature of a lease including a Kanapatom as defined in the Travancore Jenmi and Kudiyan Act of 1071 or any Michavarom or other dues due to an Edavagai by virtue of the provisions of the Travancore Edavagai Act,

(e) any liability arising out of a breach of trust,

(f) any liability in respect of maintenance whether under decree of Court or otherwise,

(g) any wages due in respect of agricultural or industrial labour,

(h) any debt which represents the price of goods purchased for any purpose whatsoever,

(i) any liability arising out of a sale of immoveable property in respect of the balance of purchase money for which the vendor has a lien on the property sold,

(j) any debt incurred after the 23rd day of Dhanu 1112.

5. Except in the cases mentioned hereunder, nothing contained in this Act shall affect any usufructuary mortgage by virtue of which the mortgagee is in possession of the mortgaged property.

Applicability of the Act to usufructuary mortgages.

Exceptions.—(1) Any transaction which purports to be a usufructuary mortgage but which is proved to have been intended to be only a hypothecation.

(2) A claim by the mortgagee whether arising under a decree or otherwise for recovery of the mortgage amount.

6. (1) Nothing contained in this Act shall affect any liability arising from any transaction with a bank if the interest charged in respect of the liability does not exceed nine per cent. per annum.

Applicability of the Act to transactions with a bank.

(2) The provisions of sub-section (1) shall not apply to any chitty debt due to or from a bank.

7. Our Government may, notwithstanding anything contained in this Act, exempt by notification published in Our Government Gazette, any institution or class of institutions from the operation of all or any of the provisions of this Act.

Government's power of exemption.

8. Notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, any debt to which this Act applies may be repaid in instalments not exceeding twelve in number and spread over a period not exceeding six years in any case:

Payment in instalments.

Provided that (a) the first instalment is paid within six months from the date of the commencement of this Act, and

(b) each of the succeeding instalments is paid within six months from the date of the preceding instalment, and

(c) subject to a minimum of ten rupees, the amount paid at each instalment is not less than one-twelfth of the debt due at the commencement of this Act, and

Provided further that on default of payment of two consecutive instalments the whole debt less any portion that may have been paid shall be immediately realisable.

9. (1) Notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, if eighty per cent. of a debt to which this Act applies is repaid in instalments spread over a period not exceeding three years commencing from the date of this Act the whole debt shall be deemed to be discharged,

Reduction of debts by payment in instalments within three years.

and no sum in excess of the sums so paid shall be recoverable from the debtor or any land or interest in any land belonging to him nor shall his property be liable to be proceeded against in any manner in the execution of any decree against him so far as such decree is in excess of the sum so paid.

(2) The conditions specified in the provisos to Section 8 shall be applicable to the instalment payments under sub-section (1).

10. (1) Notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, if seventy per cent. of a debt is repaid within one year from the date of the commencement of this Act, the whole debt shall be deemed to be discharged and no sum in excess of the sum so paid shall be recoverable from the debtor or any land or interest in land belonging to him nor shall his property be liable to be proceeded against in any manner in the execution of any decree against him in so far as such decree is in excess of the sum so paid:

Reduction of debts by payment in instalments within one year.

Provided that any debtor claiming the benefits of this section shall have paid a third of the debt within six months from the date of the commencement of this Act.

11. No future interest other than simple interest calculated at four per cent. per annum in the case of money debts and six per cent. per annum in the case of paddy debts shall be chargeable from the date of the commencement of the Act on any debt to which this Act applies.

12. (1) When in execution of any decree,—
Sales of immovable properties to be set aside in certain cases. (a) any sale of immovable property has taken place before the first day of Karkadagom 1114, but such sale has not been confirmed, or

(b) any sale of immovable property has taken place on or after the 1st day of Karkadagom 1114 and whether such sale has been confirmed or not, then notwithstanding anything contained in the Travancore Limitation Act or the Code of Civil Procedure, 1100, or any other law for the time being in force, the debtor may within ninety days from the commencement of this Act apply to the Court or authority which held the sale to set aside the sale, and such Court or authority, as the case may be, shall set aside the sale if for payment to the decree-holder one-third of the amount payable under the decree is deposited in Court within six months from the date of the commencement of the Act, and the balance sufficient to make up seventy per cent of the amount payable under the decree is deposited within a further period of six months:

Provided that no discount shall be taken into account in determining the amount payable under the decree, nor shall such discount be realisable from the debtor, and

Provided further that no sale shall be set aside without notice to the creditor, the auction purchaser and other persons interested in such sale and without affording them an opportunity to be heard in the matter.

(2) On the sale being set aside under sub-section (1), the debt due under the decree shall be deemed to be discharged and no sum in excess of the sum so deposited shall be recoverable from the debtor or from any land or interest in land belonging to him.

(3) Notwithstanding the generality of the provisions contained in sub-section (1), no sale shall be liable to be set aside if the sale proceeds have been rateably distributed under Section 59 of the Code of Civil Procedure, 1100, or any other law relating to rateable distribution of assets.

13. Where a sale is set aside under Section 12, the auction purchaser, if a stranger, shall be entitled to an order for repayment of any purchase money paid by him in excess of the amount deposited under the said section against the person to whom it may have been paid and shall also have a charge for the amount remaining unrealised therefor over the property sold.

14. (1) If there is a doubt or dispute in respect of the amount payable under Section 8 or Section 9 or Section 10, the debtor may, within six months from the commencement of this Act, apply for an order fixing the amount.

(2) (a) If the debt is covered by a decree the application shall be made to the Court or authority, as the case may be, which passed the decree;

(b) If the debt is not covered by a decree, the application shall be made to the Court or authority, as the case may be, competent to pass a decree for the recovery of the debt.

(3) An application under sub-section (1) shall be dismissed if the debtor fails to deposit with the Court or authority before which such application is pending the amount of any instalment which on his admission is payable by him under the provisions of this Act.

(4) A proceeding under this Section shall for purposes of inquiry and disposal be deemed to be a proceeding to which Section 105 of the Code of Civil Procedure, 1100, applies.

(5) An appeal shall lie against any order passed by a Civil Court under sub-section (1) to the Court to which appeals ordinarily lie from a decision of such Court, and in other cases to the authority notified by Our Government in that behalf.

(6) There shall be no second appeal against any order passed by the appellate Court or authority under sub-section (1).

15. (1) Nothing contained in this Act shall affect the liability of, —

Restrictions on the scope of the Act in certain cases.

(a) any person who has been adjudged an insolvent under the Travancore Insolvency Act, 1108, or

(b) any company which has been ordered to be wound up under the provisions of the Travancore Companies Act, IX of 1114 or any enactments repealed thereby, or

(c) any society ordered to be wound up under the provisions of the Travancore Co-operative Societies Act, 1112 or any enactment repealed thereby.

(2) Notwithstanding anything contained in the Travancore Insolvency Act, 1108 or the Travancore Companies Act, IX of 1114 or the Travancore Co-operative Societies Act, 1112, no claim by a debtor to the benefits conferred by Section 8 or Section 9 or Section 10 shall be deemed to be an act sufficient to constitute the insolvency of the debtor or justifying proceedings for the winding up of the company or the society, as the case may be.

16.- The Travancore Agriculturists' Relief Act, (III of 1112) is hereby repealed.

Repeal.

STATEMENT OF OBJECTS AND REASONS.

The Travancore Agriculturists' Relief Act has been in operation for over three years and the Debt Conciliation Boards established thereunder have also been functioning in several parts of the State. Though accrual of interest on debts incurred both before and after the Act has been regulated to some extent, no appreciable results can be said to have been achieved in the reduction or liquidation of past debts. Whatever may have been the real causes which contributed to this failure, the necessity for effective and proper measures of relief has not ceased to exist. It is therefore proposed to abolish the Debt Conciliation Boards, repeal the Act under which they were established and make more effective provisions for the relief of indebtedness. Hence the Bill.

The principles underlying the Bill are briefly explained below. The distinction between agriculturists and non-agriculturists for purposes of relief is a fruitful source of litigation and the indefiniteness of the tests adopted for the purpose has resulted in the denial of relief in deserving cases. It is therefore necessary to extend the benefits of the measure to all classes of persons, and hence the distinction between an agriculturist and a non-agriculturist is omitted. *Vide* the definition of the words "debtor" and "person" given in sub-clauses (iv) and (vii) of Clause 2. Subject to certain well-defined exceptions specified in Clauses 4 to 6, the benefits of the proposed measure are to be available in respect of all debts incurred before the enactment of the Travancore Agriculturists' Relief Act. *Vide* Clause 3.

The main relief measures are contained in Clauses 8, 9, 10, 11 and 12. Clause 11 provides that, from the date of commencement of the Act, only simple interest at 4 per cent in the case of money debts and 6 per cent in the case of paddy debts shall accrue in respect of a debt to which the Act applies. Under the law the whole of a debt is payable when it becomes due and only limited power is conferred on Courts to direct payment in instalments. It is proposed to effect a change in the law in this respect by conferring on the debtor the liberty to pay his debt in instalments spread over a period of six years. It is further provided in Clause 9 that payment of 80 per cent. of any debt within three years from the date of the Act shall entitle the debtor to a full discharge of the debt. A still larger concession is given under Clause 10 which provides for a full discharge of the debt if 70 per cent of it is paid within one year from the date of the Act. Clauses 12 and 13 provide for the cancellation of sales of immovable properties effected on or after the 1st day of Karkadagom 1114 and sales effected before that date, but which have not been confirmed. Clause 14 empowers the Courts to decide all doubts and disputes in respect of the amount payable by a debtor.

It is necessary however in the larger interests of the community that certain classes of debts should be excluded from the purview of the Bill. Such are debts and liabilities due to Government and the other classes of debts mentioned in Clauses 4, 5 and 6. Usufructuary mortgages under which the mortgagee is in possession are, subject to certain exceptions, exempted from the operation of this measure. Value of goods purchased for any purpose and transactions of a bank in respect of which not more than nine per cent interest is charged are also excluded from the purview of the Bill. Power is also reserved with Government to exempt institutions like the Credit Bank and the Reserve Bank of India from the operation of all or any of the provisions of the Bill.

S. KRISHNA-PILLAI,
Legal Remembrancer to Government.

**REPORT OF THE SELECT COMMITTEE ON THE TRAVANCORE
DEBT RELIEF BILL.**

To

The President,

Sri Mulam Assembly, Trivandrum.

The Committee met in the Legislative Chamber on the 19th, 20th, 21st, 22nd, 26th, 27th and 28th of June 1940 and after a detailed discussion of the main principles involved in the Bill, came to certain conclusions concerning the changes to be made in the provisions of the Bill.

The Committee then proceeded to read the Bill, clause by clause, and they have made the changes noted below:—

CLAUSE 2.

(i) In sub-clause (i) between the words "carrying on" and the words "the business" the words "in Travancore" shall be inserted.

(ii) In sub-clause (ii) for the words "registered under" the words "as defined in" shall be substituted.

(iii) After sub-clause (ii) the following shall be added as sub-clause (iii) renumbering the subsequent sub-clauses, namely:—

"(iii) Creditor includes his heirs, legal representatives and assigns."

(iv) In sub-clause (iv) renumbered (v) the following shall be substituted for the definition of the word "Debtor," namely:—

"'Debtor' includes the heirs and legal representatives of a debtor and any person holding an interest in any property secured for the debt."

(v) In sub-clause (v) renumbered (vi), the words and figures "or an order passed under Section 51" shall be omitted, and for the words "provisions" the word "provision" shall be substituted.

(vi) Sub-clause (vi) shall be omitted.

(vii) In sub-clause (viii) the following shall be added after the words "Foreign Government":—

"and includes a corporation formed in pursuance of any special enactment of Travancore, British India or the United Kingdom or by Royal Charter or Letters Patent."

CLAUSE 3.

(i) For the words "remaining due" the word "subsisting" shall be substituted, and

(ii) For the Explanation, the following shall be substituted:—

"Where a debt incurred before the 23rd Dhanu 1112, has been renewed or included in a fresh document in favour of the creditor after the 23rd Dhanu 1112, such debt shall, notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, be deemed to be a debt to which this Act applies."

CLAUSE 4.

(i) In sub-clause (a) for the words "or any other sum due to them by way of loan or otherwise" the following shall be substituted, namely:—

"or any liability arising from any transaction with Our Government,"

(ii) In sub-clause (b) after the words "local authority" the following shall be added, namely:—

"or any liability arising from any transaction with them," and

(iii) For the words "any debt" occurring in sub-clause (j) the following shall be substituted "except for purposes of Sections 19, 20, 21 and 23 any debt."

CLAUSE 5.

(i) Clause 5 shall be renumbered as sub-clause (i) of Clause 5.

(ii) The words "by virtue of which the mortgagee is in possession of the mortgaged property" shall be omitted.

(iii) In the first exception, for the word "only" the words "or treated only as" shall be substituted.

(iv) For the figures and brackets "(1)" and "(2)" occurring in the Exceptions, the letters and brackets "(a)" and "(b)" shall be substituted, and

(v) The following shall be added as sub-clause (2) namely:—

"(2) Notwithstanding any practice or rule of law to the contrary it shall be competent to the parties to the transactions referred to in Exception (a) of sub-section (1) or any person claiming under them to prove that the transaction purporting to be a usufructuary mortgage was intended to be, or treated as a hypothecation."

CLAUSE 7.

In Clause 7 after the words "class of institutions" the following shall be inserted, namely:—

"under the direct control or management of Our Government or of any other Government or a corporation formed in pursuance of a special enactment for the time being in force in Travancore, British India or the United Kingdom."

CLAUSES 8, 9 & 10.

For Clauses 8, 9 and 10, the following shall be substituted as Clauses 8, 9 and 10:—

8. Notwithstanding anything contained in any law, custom, contract, decree or order of Court to the contrary, any debt may be discharged by repayment in instalments in the manner and to the extent specified in Section 9.

9. (1) If eighty per cent. of the amount of any debt together with future interest that may accrue thereon is repaid within nine years from the date of the commencement of the Act, the whole debt shall, notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, be deemed to be discharged.

Provided that:—

(a) the first instalment is paid within six months from the date of the commencement of the Act.

(b) subject to the provisions contained in sub-section (3), each of the succeeding instalments is paid within six months of the date of the preceding instalment, and

(c) except in the case of the last instalment, the amount paid at each instalment is not less than seven per cent. of the debt subsisting at the commencement of the Act or less than rupees ten whichever is larger.

(2) If, in accordance with the conditions specified in the proviso to sub-section (1),—

(a) seventy five per cent. of the amount of any debt together with future interest that may accrue thereon is repaid within six years from the commencement of the Act, or

(b) seventy per cent. of the amount of any debt together with future interest that may accrue thereon is repaid within two years from the date of the commencement of the Act,

the whole debt shall be deemed to be discharged.

(3) (a) If subsequent to the payment of the first instalment default is made in the due payment of any instalment, such defaulted instalment shall be realisable forthwith.

(b) If default is made in the payment of three consecutive instalments, the debtor shall not be entitled to claim the benefits of the provisions of sub-section (1) or sub-section (2) and the whole debt together with such interest as may have accrued thereon less any amount that may have already been paid shall be forthwith payable.

(4) Nothing contained in this section shall be deemed to prevent a debtor from claiming the benefits of this section by making payment of any or all the instalments before the due date.

10. Nothing contained in Section 8 or Section 9 shall be deemed to affect the powers of a Court under the Code of Civil Procedure, 1100, or the rights of a creditor to institute a suit for the recovery of his debt:

Provided that the execution of any decree or order of the Court shall not be in contravention of the said sections."

After Clause 10, the following shall be inserted as Clause 11, renumbering existing Clauses 11 to 14 as 12 to 15.

“ 11. In determining the amount of a decree debt for purposes of payment under Sections 8 and 9, notwithstanding anything contained in Section 31 of the Code of Civil Procedure, 1100, or any other law, contract, decree or order of Court to the contrary, not more than one-half of the principal in the case of money debts and not more than the principal in the case of paddy debts shall be deemed payable towards interest up to the date of the decree and not more than a like amount towards interest from the date of the decree.”

Calculation of interests in the case of decree debts.

CLAUSE 12.

In Clause 12 renumbered 13:—

(i) In clause (b) of sub-clause (1) for the words “to the decree holder” the words “towards the decree debt” shall be substituted;

(ii) In sub-clause (2), the words beginning with “and no sum in excess” and ending with “belonging to him” shall be omitted.

CLAUSE 13.

In clause 13 renumbered 14:—

For the word and figures “Section 12” the word and figures “Section 13” shall be substituted.

CLAUSE 14.

In clause 14 renumbered 15:—

(i) In sub-clause (1) for the words and figures “under Section 8 or Section 9 or Section 10, the words and figure “under Section 9” shall be substituted.

(ii) The following shall be inserted as sub-clause (5) renumbering the existing sub-clauses (5) and (6) as (6) and (7):—

“(5) The Court shall by its order determine the amount which the applicant may pay under the provisions of Section 9 and the time within which such payment shall be made and any payment made in accordance with such order shall be deemed to be a valid payment for purposes of Section 9.”

(iii) In sub-clause (5) renumbered sub-clause (6) after the words “such court” the words “in a suit for the recovery of the debt” shall be inserted.

(iv) in sub-clause (6) renumbered (7), for the brackets and figure “(4),” the brackets and figure “(6)” shall be substituted.

After Clause 14 (renumbered 15), the following new clauses shall be added:—

“ 16. (1) Any individual who is unable to pay his debts under the foregoing provisions of this Act may present an application to the Court within whose jurisdiction he resides or ordinarily carries on business for a full settlement of his debts.

Application to court in the case of persons unable to pay debts under the Act.

(2) Every such application shall be in writing and shall be signed by the applicant and verified in the manner prescribed by the Code of Civil Procedure, 1100, for signing and verifying plaints.

(3) Every such application shall contain the following particulars, namely:—

(a) the place where he resides and the place or places where he holds any property moveable or immovable;

(b) the amount and other particulars of all claims against him whether arising before or after the 23rd Dhanu 1112, together with the name, address and residence of his creditors;

(c) the amount and other particulars of all his property including claims due to him together with a specification of the value of such property and the place or places at which any such property is to be found and details of any mortgage, lien or charges thereon;

(d) a statement that he wants a fair settlement of his debts;

(e) a statement that he unconditionally leaves all his assets in the control of the court and

(f) other particulars if so prescribed.

(4) The Court, for purposes of this section, shall be the District Munsiff's Court, if the total of the debt does not exceed Rs. 2,000 and in all other cases the District Court.

17. (1) On receipt of an application under Section 16, the Court shall pass an order fixing a date for hearing the application;
 Courts order fixing date, and notice thereof.

(2) Notice of such order shall be sent by registered Anchal or Post acknowledgment due, as well as in such other manner if so prescribed to all the parties to the proceeding.

18. The Court shall determine the admissibility and amount of each such claim and shall for such purpose take all steps necessary for the determination of any question raised in the case. The procedure prescribed in the Travancore Insolvency Act shall *mutatis mutandis* be applicable to such proceedings.
 Applicability of the Travancore Insolvency Act to proceedings before court.

19. The Court shall then settle the liabilities of the debtor in the manner mentioned hereunder, namely:—
 Settlement of liability by court.

(a) One-fourth of the entire assets not exceeding Rs. 3,000 in value shall be allotted to and given over to the debtor free of all encumbrances.

Provided that in such allotment the homestead in which the debtor lives shall wherever possible be allotted to his share;

(b) all the remaining assets shall be distributed and made over to the creditors in proportion to their debts:

Provided that secured creditors shall to the extent of 75 per cent. of their debts be paid in preference to unsecured creditors and only the balance of the assets shall be distributed alike amongst secured creditors for the balance of their debts and unsecured creditors.

20. All alienations made by the debtor during the pendency of an application under Section 16 shall be void as against every creditor to whom a debt is owing on the date of the presentation of the petition.
 Alienations by debt of pending application under Section 16.

21. During the pendency of an application under Section 16 the court may stay the execution of any decree against the applicant or his properties."
 Court's power to stay execution of decrees.

Clause 15.

Clause 15 shall be renumbered as Clause 22, and in the clause so renumbered, in sub-clause (2), for the words and figures "by Section 8 or Section 9 or Section 10," the words and figures "by Section 9 or Section 16" shall be substituted.

After Clause 15 (renumbered 22) the following new clauses shall be inserted as Clauses 23 and 24, namely:—

"23. In Section 44 of the Civil Procedure Code 1100, a colon shall be substituted for the full-stop appearing at the end of the section and the following shall be added thereafter, namely:—
 Amendment of Civil Procedure Code.

"Provided that, where the decree is for the payment of money, execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the court, for reasons recorded in writing, is satisfied—

(a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property; or

(b) that the judgment-debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same, or

(c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation.—In the calculation of the means of the judgment-debtor for the purposes of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree.

24. (1) Our Government may make rules for carrying into effect the purposes of this Act.
 (2) In particular and without prejudice to the generality of the foregoing power, Our Government may make rules:—
 (a) for all matters which are to be prescribed under the Act,
 (b) prescribing the form of, and the fees to be paid in respect of applications mentioned in this Act, and
 (c) for removing any difficulty in giving effect to the provisions of this Act.
 (3) All rules made under this section shall be consistent with the provisions of this Act. They shall be published in Our Government Gazette and upon such publication shall have effect as if enacted in this Act."

CLAUSE 16.

Clause 16 shall be renumbered as clause 25.

As the Bill has undergone material alterations, the Committee are of the opinion that the Bill as revised may be republished. A copy of the Bill as revised is appended herewith.

(Sd.) S. CHATTANATHA KABAYALAR,
 (Chairman.)

(Sd.) S. KRISHNA PILLAI,
 (Legal Remembrancer to Government.)

Subject to the right of moving amendments.

(Sd.) T. P. Velayudhan Pillai.

„ and subject to my dissenting note.

„ (Sd.) K. Kunju Panicker.

„ „ D. Francis.

„ „ C. Jebamony Nadar.

„ „ K. Narayanaperumal Nadar.

„ „ R. Sambasiva Aiyar.

Subject to the right of moving amendments.

„ (Sd.) P. V. Mathai Chemparathy.

„ „ K. G. Govindan.

„ „ P. S. Muhamed.

„ „ G. Velu Pillai.

„ „ P. Sivarama Pillai.

„ „ S. Narayana Pillai.

„ „ P. Narayana Pillai.

„ „ T. C. Kesava Pillai.

„ „ K. R. Narayanan.

„ „ K. Dominic Joseph.

„ „ M. L. D'Cruz.

„ „ K. V. Joseph.

„ „ K. P. Janardhanan Nair.

„ „ K. Madhavan.

„ „ P. Kunjukrishnan.

„ „ A. K. Kumaran Vaidyan.

„ „ J. E. A. Pereira.

„ „ N. R. Krishnan.

„ „ M. Padmanabha Pillai.

„ „ M. R. Narayana Pillai.

„ „ M. Sivathanu Pillai.

„ „ M. Ramiah Pillai.

„ „ V. Chandamiah.

„ „ E. P. Vargese.

(Sd.) P. C. Adichan.

„ H. O. L. Marikar.

„ T. T. Kesavan Sastri.

„ K. K. Kochukunju.

„ N. John Joseph.

„ R. Narayanan Nambootiri.

„ E. E. Pandarathil.

„ Thariathu Kunjithommen.

„ M. G. Kesava Pillai.

„ P. Vivekanandam.

„ K. G. Kunjukrishna Pillai.

„ S. Govinda Pillai.

„ N. Ramakrishna Pillai.

„ N. V. Joseph.

„ Joseph Vithayathil.

„ Kottalil P. Abraham.

„ N. Velu Achary.

„ M. L. Janardhana Pillai.

„ K. C. Karunakaran.

„ V. Kunjukrishnan.

„ N. Kesava Panicker.

„ T. K. Kochu Thommen.

„ K. Devaki Antharjanam.

Subject to Objections to Sections 8, 9, 19 and 23.

(Sd.) S. Krishna Aiyar.

Subject to the dissenting note and subject to the right of moving amendments on points dissented to.

(Sd.) N. Narayana Kurup.

(Sd.) E. Subramoria Aiyar.

(Sd.) M. K. Makkar Pillai.

Subject to the right of moving amendments.

(Sd.) K. P. Kochukora Tarakan.

(Sd.) N. M. MD. Abdul Kader.

Trivandrum,
 4th July 1940.

A. GUNAMONY,
 Secretary to the Sri Mulam Assembly.

DISSENTING NOTE BY MR. R. SAMBASIVA AIYAR.

I regret I find myself unable to agree with the relief measures embodied in the Bill as reported by the Committee.

The effect of Sections, 8, 9 and 11 would be disastrous to a large section of creditors. What is proposed in these sections is two kinds of 'cut' with a view to reduce the debt. The first cut is to be effected by repealing Section 31 C. P. O. retrospectively to affect all debts covered by the Bill so that interest can never exceed half the principal however long the transaction has been in force: (Section 11). Secondly this amount is subjected to a further reduction of 30, 25 or 20 per cent. according as payment of the same is made within two, six or nine years (Sections 8 and 9). I shall try to illustrate the effect of these proposals on creditors generally by two concrete examples:—

(i) A has lent Rs. 100 on 1st Chingom 1104 on a hypothecation bond at 12 per cent. interest per annum. No amount has been paid by way of interest. The total debt would first be calculated as Rs. 150 and further reduced to Rs. 105 as a result of Section 9. Thus interest for 12 years is Rs. 5.

(ii) A has lent Rs. 100 on 1st Chingom 1112 at 12 per cent. interest per annum. Interest till the end of 1115 would be Rs. 25, as a result of the Agriculturists' Relief Act, thus making the total debt payable Rs. 125. It is reduced to Rs. 88-3 as., as a result of Section 9, thereby cutting off even a good slice from the actual principal amount lent out four years back.

What the effect of these proposals would be on the credit of the country generally can well be imagined when we further remember—

(i) that no pecuniary limit is proposed for the reliefs proposed;

(ii) that all classes of debtors including those who are well able to pay are afforded all the reliefs contemplated in the Bill;

(iii) that no distinction is drawn between pre-depression and post-depression debts except it be that as a result of Section 9 those who have advanced moneys at low rates of interest during the hardpressed depression days would in no case be entitled to realise even the bare principal amount;

(iv) that there is no guarantee of the debtor even furnishing security for unsecured amounts when he claims the right to pay in instalments his 'doubly reduced' debt; and

(v) that practically every kind of debt is brought within the purview of the Bill including amounts settled by conciliation courts, sums agreed to between parties as a result of compromise after substantial reduction, debts incurred for purposes of trade, costs decreed or ordered by courts in civil cases, sums borrowed on the pledge of gold or gold ornaments and sums due to poor widows and orphans, the interests of which is their only source of maintenance, even when such debts are small.

The main relief measures of the Bill are, therefore, as shown above, unsound in my opinion. The provisions relating to Banks which are sought to be excluded from the operation of the Bill are also in some respects inequitable. The object of Section 6 is apparently to give some measure of protection to the Banks; but by the clause as now worded, Banks would in effect be penalised retrospectively for having taken documents bearing over 9 per cent. interest per annum in the past. There may not have been cause for serious complaint if only the provision for interest exceeding 9 per cent. per annum had been held to be unenforceable. As it is the small existing 'fluid' assets of many banks in Travancore would be considerably reduced by submitting many of their transactions to the 'double cut' stated above involving even the principal amount advanced.

The Bill should be entirely recast in the general interests of the credit of the country.

DISSENTING NOTE BY MR. K. NARAYANAPERUMAL NADAR.

Stopping of Civil Imprisonment. Under the Civil Procedure Code the court has no discretionary power to refuse execution either against person or against property, which lay at the option of the debtor. That the power of imprisonment rested with the creditor, means indirect slavery.

Arrest is very often a device adopted to compel the debtor to part with his property. Where property could be ascertained, attached and sold, there is no need for the arrest, in execution of a decree. Unlike in the past, ninety per cent. of the debtors welcome imprisonment and cause additional loss to the creditors, in the shape of getting daily batta of ten chukrams and four rupees for the bedding. Stopping of arrest and detention is a gain not only to the debtor but also to the creditor. Whatever might the judges and lawyers say, the public sentiment, does not approve of the method of arrest and detention of a debtor for facilitating recoveries of loans.

Almost in all countries of the world, the relevant provisions of the Civil Code are liberalised. The Deccan Agriculturists' Relief Act forbids the imprisonment of agriculturist debtors. Some of the recent Money Lenders' Acts in British Indian provinces, do the same.

In conclusion, from the date of the passing of this Bill, civil imprisonment should be stopped permanently. If that is done it will mark a happy new era in the history of debt legislation in this State.

As regards interest section, it stipulates for payment of future interest only at 4 per cent. from the date of the Act. So it means that up to the date of the Regulation the interest is to be calculated at the contractual rates which may be 9 per cent, 12 per cent. or even more sometimes including penal interest by the co-operative banks. But the Agriculturists' Relief Act of 23rd Dhanu 1112 brought down the interest, to 6 per cent. and naturally, apart from Conciliation Board awards, the general rate of interest in the country came down to 6 per cent, and even in cases of pro-notes and other documents stipulated at 9 or 12 per cent. in all transactions, interest was calculated only at 5 per cent. So it is only proper, that the relief given by that Act is not taken away by the new one. On the other hand it would be very much relieving to the debtor, if the reduced rate of 4 per cent. proposed in this draft Bill is made to apply to all debts from 23rd Dhanu 1112 on which date, the principle of reduced rate of interest was accepted by the Legislature.

DISSENTING NOTE BY MR. K. KUNJU PANICKER.

In appending a note to the report of the Debt Relief Committee, I wish to state that the majority of the points recommended in the draft Bill and Report, have my support. But I beg to point out that Section 4 (d), (h), (i) and (j) in the draft Bill call for substantial changes. The ordinary lease debt in my view should come under the Bill. Similarly the price of goods purchased and the vendor's lien on immovable property also are to come under the operation of the Bill to do substantial justice to the debtors of this land. The renewal of the instruments after 1105 also should be reopened. The reduced rate of interest provided by the Act III of 112 should not be cancelled by the present Bill, since the economic depression is more acute now than in 1112 by the advent of the European war.

DISSENTING NOTE BY MR. D. FRANCIS.

According to Section 11 of this Bill the future interest on money debt is 4 per cent. from the commencement of this Act from 1105 (i. e. ever since the economic depression began). If that is so it will give adequate relief to the debtors. Consequently, I am of opinion, that 4 per cent. interest should apply to all debts incurred after 1-1-1105. Otherwise this Bill cannot be regarded as a Debt Relief Bill in the true sense of the term.

DISSENTING NOTE BY MR. C. JEBAMONY NADAR.

I regret I cannot agree entirely with the majority report. But in view of the right to move amendments during the second reading of the Bill I do not propose to mention here all the points of disagreement but would state only two.

Co-operative Societies. I am not in favour of bringing in co-operative societies within the scope of the Act. The reasons advanced by Mr. M. Ramachandra Rao in his dissenting notes are appealing to me. A lawyer President of one of the most flourishing Co-operative Banks goes even to the extent of saying that his Bank will have to be liquidated as soon as the proposed law comes into effect. If that be so the rural population would be deprived of the main, if not the only, source of credit. Hence as the Bill stands, I believe it would be a shock to the co-operative movements. That is perhaps the reason why Cochin and Madras have not brought co-operative societies within the ambit of their Acts.

Lessees. In my view there is no justification for refusing to the lessees reliefs afforded to every other debtor and that irrespective of his capacity to pay. It was pointed out that in this matter the Bill follows only the recommendations of the Debt Relief Committee. But with due respect to the Committee, I have to differ, because the Committee finds (1) that relief measures should be available to all debtors in the State (vide para 24 of the report). (2) That all classes of debts should be included for the purposes of relief (vide para 27). In spite of this finding I do not see anywhere in the report of the majority, any discussion or convincing reasons as to why leases should be excluded. They simply say that they adopt the exceptions contained in Act III of 1112. (Vide para 34 of the report). On the other hand Mr. N. Narayana Kurup in his supplementary notes

advertis to this point and pleads for relief to the lessees also. A reference to para 3 of his notes shows that the Committee were not in full information of the facts relating to this question. If that be so that is a further ground of justification to differ from the views of the Committee.

Further, one of the reasons for the economic depression is said to be the fall in prices of agricultural products. It follows therefore that, of all the debtors the lessees must be the most hard hit and hence justice requires that they should be protected. As between the lessor and the lessee the former is more or less a capitalist while the latter is the real agriculturist.

I derive additional support from a comparative study of the legislations in the adjacent territories. Section 16 (2) of the Cochin Agriculturists' Relief Act XVIII of 1114 enacts that the entire pottom in arrears for the period prior to 1-1-1107 and 50 per cent. of the pottom in arrears for the period subsequent thereto up to date of that Act (viz., 1-1-1115) shall be deemed to be discharged.

Section 15 (1) of the Madras Agriculturists' Relief Act IV of 1938 provides that all rents accruing for the Fasli year 1345 and prior Faslis and which were outstanding on the date of the Act shall be deemed to be discharged.

The Travancore Advocates' Association has proposed material alteration to this provision *i. e.*, to Clause 4 (d). I also find resolutions passed by various agricultural associations, demanding relief to lessees.

These are some of the reasons which influence me to take this view.

DISSENTING NOTE BY MR. N. NARAYANA KURUP.

It is very very disappointing to note that the Bill which was intended to relieve the debt burden of the predepression period does not contain adequate provisions to that purpose. At the same time it contains provisions to reduce the debt—even the principal in some cases—incurred during the depression period. A Bill was necessitated due to the sudden and steady fall of price of agricultural produce, by which the debtor became unable to pay their debts. After 1105, the price of pepper fell from Rs. 500 to Rs. 90 per candy, the price of coconuts from Rs. 70 to Rs. 17 and so forth. It is evident therefore that the cultivators were not getting even one-third of what they had been getting. So much so they were not able to discharge their debt in part even, having no surplus after meeting only the daily wants. Hence their expectation of a steady price as in 1105 fell short and the debt accumulated with heavy interest.

It is to lessen that debt burden, we cried for a Bill. The relief can be given only by reducing the interest from 1105. As the landed property had not given more than 3 per cent. interest during depression, the interest from 1105 shall be calculated at 3 or 4 per cent. on the amount found due on 1-1-1105. Further, in no case interest shall be allowed more than half the principal, if it is a money transaction and equal to the principal if it is a paddy transaction.

By the provision in the present Bill, the greatest benefit allowed in payment of 70 per cent within two years. One will have to pay an amount equal to the principal if not more, *i. e.*, the debtor will have to pay at 9 per cent. or 10 per cent. interest during depression period. Further the provisions work havoc on the innocent creditor who advanced money during depression period of 1111 and 1112 when the value of money has not changed in any way. Their principal also will be reduced in some cases. It is very hard to cut at their principal when we see that money value from that period till now has not changed.

Considering all these facts, the Committee at first adapted the relief provisions, recommended by the Debt Relief Committee and passed them by a majority at first. But the Legal Remembrancer pointed out that such a change will change the principle of the Bill and that the Government cannot accept it. He further said that even if it is to be accepted, the Bill will have to be republished and inordinate delay will be caused, resulting in no Bill at all some times. On that threat, the decision of the previous day was reopened and the relief provisions as found in the Bill were accepted by a majority. This fact of re opening the previous days decision does not find a place in the report. I think that ought to be stated in the report.

I am of opinion that the relief provisions recommended by the Debt Relief Committee are more beneficial to both the creditors and the debtors in the State and the draft Bill appended to that Report should be accepted and introduced, with the necessary amendments on the lines suggested by me in the Supplementary Note attached to the Debt Relief Committee Report.

Trivandrum,
10th July 1940.

A. GUNAMONY,
Secretary to the Sri Mulam Assembly.

THE TRAVANCORE DEBT RELIEF BILL.

(As passed by the Sri Mulam Assembly.)

Whereas it is expedient to make certain provisions in relief of indebtedness; It is hereby enacted as follows:—

Preamble.
Short title, commencement and extent.

1. (a) This Act may be called the Travancore Debt Relief Act, 1115.

(b) It shall come into force at once.

(c) It extends to the whole of Travancore.

Definitions.

2. In this Act, unless there be something repugnant in the subject or context,—

(i) 'Bank' means a public company carrying on in Travancore the business of banking at the commencement of the Act;

(ii) 'Chitty Debt' means a debt due from a foreman to a subscriber or from a subscriber to the foreman in respect of a chitty as defined in the Travancore Chitties Act of 1094;

(iii) 'Creditor' includes his heirs, legal representatives and assigns;

(iv) 'Debt' means any liability in cash or kind, whether secured or unsecured, due from any person whether payable under a decree or order of a Civil or Revenue Court or otherwise;

(v) 'Debtor' includes the heirs and legal representatives of a debtor and any person holding an interest in any property secured for the debt;

(vi) 'Decree' includes an award made under Section 56 of the Travancore Co-operative Societies Act, 1112, or the corresponding provision of the Act repealed thereby;

(vii) 'Person' includes an undivided Hindu family, a marumakkathayam tarwad or tavazhi, but does not include a religious or charitable institution.

(viii) 'Public Company' means a public company as defined in the Travancore Companies Act, IX of 1114, or in the Indian Companies Act 1913, or in the Companies Act of any Indian State or Foreign Government and includes a corporation formed in pursuance of any special enactment of Travancore, British India or the United Kingdom or by Royal Charter or Letters Patent.

(ix) 'Usufructuary mortgage' means a mortgage where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorises him to retain such possession until payment of the mortgage money, and to receive the rents and profits accruing from the property, or any part of such rents and profits, and to appropriate the same in lieu of interest or in payment of the mortgage-money or partly in lieu of interest and partly in payment of the mortgage-money.

Application of the Act restricted to debts incurred before the 23rd day of Dhanu 1112.

3. (1) Subject to the provisions of Sections 4 to 7, this Act shall apply to all debts incurred before the 23rd day of Dhanu 1112 and subsisting at the commencement of this Act.

Explanation.—Where a debt incurred before the 23rd Dhanu 1112 has been renewed, included or merged in a fresh document or decree in favour of the creditor after the 23rd Dhanu 1112, such debt shall, notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, be deemed to be a debt to which this Act applies.

(2) Notwithstanding anything contained in sub-section (1) or Sections 4, 5, 6 and 7 the provisions of Sections 18, 19, 20, 21 and 23 shall apply to all classes of debts whether incurred before or after the 23rd Dhanu 1112.

4. Nothing in this Act shall affect debts and liabilities falling under the following heads:—

Certain debts and liabilities not to be affected.

(a) any revenue, tax or cess payable to Our Government or any liability arising from any transaction with Our Government.

(b) any tax, cess, fees or other payment due to any Municipality, Village Panchayat or Village Union or other local authority or any liability arising from any transaction with them,

(c) any sum due to the Sree Pandaravaka or Sree Padcm,

(d) any liability arising out of any transaction in the nature of a lease including a *Kaupattom* as defined in the Travancore Jemmi and Kudiyan Act of 1071 or any *Michavarom* or other dues due to an *Edavagai* by virtue of the provisions of the Travancore *Edavagai* Act,

(e) any liability arising out of a breach of trust;

(f) any liability in respect of maintenance whether under decree of Court or otherwise,

(g) any wages due in respect of agricultural or industrial labour,

(h) any debt which represents the price of goods purchased for any purpose whatsoever,

(i) any liability arising out of a sale of immovable property in respect of the balance of purchase money for which the vendor has a lien on the property sold,

(j) any debt incurred after the 23rd day of Dhanu 1112.

5. (1) Except in the cases mentioned hereunder, nothing contained in this Act shall affect any usufructuary mortgage.
Applicability of the Act to usufructuary mortgages.

Exceptions.—(a) Any transaction which purports to be a usufructuary mortgage but which is proved to have been intended to be or treated only as a hypothecation.

(b) A claim by the mortgagee whether arising under a decree or otherwise for recovery of the mortgage amount.

(2) Notwithstanding any practice or rule of law to the contrary it shall be competent to the parties to the transactions referred to in Exception (a) of sub-section (1) or any person claiming under them to prove that the transaction purporting to be a usufructuary mortgage was intended to be, or treated as a hypothecation.

6. (1) Nothing contained in this Act shall affect any liability arising from any transaction with a bank if the interest charged in respect of the liability does not exceed nine per cent. per annum.
Applicability of the Act to transactions with a bank.

(2) The provisions of sub-section (1) shall not apply to any chitty debt due to or from a bank.

7. Our Government may, notwithstanding anything contained in this Act, exempt by notification published in Our Government Gazette, any institution or class of institutions under the direct control or management of Our Government or of any other Government or a corporation formed in pursuance of a special enactment for the time being in force in Travancore, British India or the United Kingdom from the operation of all or any of the provisions of this Act.
Government's power of exemption

8. Notwithstanding anything contained in any law, custom, contract, decree or order of Court to the contrary, any debt may be discharged by repayment in instalments in the manner and to the extent specified in Section 9.
Discharge of debts by payment in instalments.

9. (1) If eighty per cent. of the amount of any debt together with future interest that may accrue thereon is repaid within nine years from the date of the commencement of the Act, the whole debt shall, notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, be deemed to be discharged:
Reduction of debts in certain cases.

Provided that—

(a) the first instalment is paid within six months from the date of the commencement of the Act,

(b) subject to the provisions contained in sub-section (3), each of the succeeding instalments is paid within six months of the date of the preceding instalment, and

(c) except in the case of the last instalment, the amount paid at each instalment is not less than six per cent. of the debt subsisting at the commencement of the Act or less than rupees ten whichever is larger.

(2) If, in accordance with the conditions specified in the proviso to sub-section (1)—

(a) seventy-five per cent. of the amount of any debt together with future interest that may accrue thereon is repaid within six years from the commencement of the Act, or

(b) seventy per cent. of the amount of any debt together with future interest that may accrue thereon is repaid within two years from the date of the commencement of the Act, the whole debt shall be deemed to be discharged.

(3) (a) If subsequent to the payment of the first instalment default is made in the due payment of any instalment, such defaulted instalment shall be realisable forthwith.

(b) If default is made in the payment of three consecutive instalments, or the last instalment, the debtor shall not be entitled to claim the benefits of the provisions of sub-section (1) or sub-section (2) and the whole debt together with such interest as may have accrued thereon less any amount that may have already been paid shall be forthwith payable.

(4) Nothing contained in this section shall be deemed to prevent a debtor from claiming the benefits of this section by making payment of any or all the instalments before the due date.

(5) If a creditor refuses to accept any payment made in accordance with the provisions of this section the debtor may within thirty days from the date of such refusal apply to the court to have such amount deposited for payment to the creditor and such deposit shall be deemed to be a valid payment under this section.

Explanation.—The Court for purposes of this sub-section shall be the Court competent to entertain a suit for the recovery of the debt.

10. Nothing contained in Section 8 or Section 9 shall be deemed to affect the powers of a Court under the Code of Civil Procedure, 1100, or the rights of a creditor to institute a suit for the recovery of his debt:

Saving of powers of Civil Courts.

Provided that the execution of any decree or order of the Court shall not be in contravention of the said sections.

11. In determining the amount of a decree debt for purposes of payment under Sections 8 and 9, notwithstanding anything contained in Section 31 of the Code of Civil Procedure, 1100, or any other law, contract decree or order of Court to the contrary, not more than one-half of the principal in the case of money debts and not more than the principal in the case of paddy debts shall be deemed payable towards interest up to the date of the decree and not more than a like amount towards interest from the date of the decree.

Calculation of interest in the case of decree debts.

12. No future interest exceeding simple interest calculated at four per cent. per annum in the case of money debts and six per cent. per annum in the case of paddy debts shall be chargeable from the date of the commencement of the Act on any debt to which this Act applies.

Rate of future interest.

13. (1) When in execution of any decree,—

Sales of immovable properties to be set aside in certain cases.

(a) any sale of immovable property has taken place before the first day of Karkadagom 1114, but such sale has not been confirmed before the commencement of this Act, or

(b) any sale of immovable property has taken place on or after the 1st day of Karkadagom 1114 and whether such sale has been confirmed or not,

then notwithstanding anything contained in the Travancore Limitation Act or the Code of Civil Procedure, 1100, or any other law for the time being in force, the debtor may, within ninety days from the commencement of this Act, apply to the Court or authority which held the sale to set aside the sale, and such Court or authority, as the case may be, shall set aside the sale if for payment towards the decree debt one-third of the amount payable under the decree is deposited in Court within six months from the date of the commencement of the Act, and the balance sufficient to make up seventy per cent. of the amount payable under the decree is deposited within a further period of six months:

Provided that no discount shall be taken into account in determining the amount payable under the decree, nor shall such discount be realisable from the debtor, and

Provided further that no sale shall be set aside without notice to the creditor, the auction purchaser and other persons interested in such sale and without affording them an opportunity to be heard in the matter.

(2) On the sale being set aside under sub-section (1), the debt due under the decree shall be deemed to be discharged.

(3) Notwithstanding the generality of the provisions contained in sub-section (1), no sale shall be liable to be set aside if the sale proceeds have been rateably distributed under Section 59 of the Code of Civil Procedure, 1100, or any other law relating to rateable distribution of assets.

14. Where a sale is set aside under Section 13, the auction purchaser, if a stranger, shall be entitled to an order for repayment of any purchase money paid by him in excess of the amount deposited under the said section against the person to whom it may have been paid and shall also have a charge for the amount remaining unrealised therefor over the property sold.

Protection afforded to stranger auction purchaser where sale is set aside under Section 13.

15. (1) If there is a doubt or dispute in respect of the amount payable under Section 9 the debtor may apply for an order fixing the amount.

Power of Court to decide doubts and disputes relating to payments under Section 9.

(2) (a) If the debt is covered by a decree the application shall be made to the Court or authority, as the case may be, which passed the decree;

(b) If the debt is not covered by a decree, the application shall be made to the Court or authority, as the case may be, competent to pass a decree for the recovery of the debt.

(3) An application under sub-section (1) shall be dismissed if the debtor fails to deposit with the Court or authority before which such application is pending the amount of any instalment which on his admission is payable by him under the provisions of this Act, and no second application for the same purpose shall be entertained.

(4) A proceeding under this section shall for purposes of inquiry and disposal be deemed to be a proceeding to which Section 105 of the Code of Civil Procedure, 1100, applies.

(5) The Court shall by its order determine the amount which the applicant may pay under the provisions of Section 9 and the time within which such payment shall be made and any payment made in accordance with such order shall be deemed to be a valid payment for purposes of Section 9.

(6) An appeal shall lie against any order passed by a Civil Court under sub-section (1) to the Court to which appeals ordinarily lie from a decision of such Court, in a suit for the recovery of the debt and in other cases to the authority notified by Our Government in that behalf.

(7) There shall be no second appeal against any order passed by the appellate Court or authority under sub section (6).

16. (1) Any individual who is unable to pay his debts under the foregoing provisions of this Act may present an application to the Court within whose jurisdiction he resides or ordinarily carries on business for a full settlement of his debts.

Application to Court in the case of persons unable to pay debts under the Act.

(2) Every such application shall be in writing and shall be signed by the applicant and verified in the manner prescribed by the Code of Civil Procedure, 1100, for signing and verifying plaints.

(3) Every such application shall contain the following particulars, namely:—

(a) the place where the applicant resides and the place or places where he holds any property movable or immovable;

(b) the amount and other particulars of all claims against him whether arising before or after the 23rd Dhanu 1112, together with the name, address and residence of his creditors;

(c) the amount and other particulars of all his property including claims due to him together with a specification of the value of such property and the place or places at which any such property is to be found and details of any mortgage, lien or charges thereon;

(d) a statement that he wants a fair settlement of his debts;

(e) a statement that he unconditionally leaves all his assets in the control of the Court; and

(f) other particulars if so prescribed.

(4) The Court for purposes of this section, shall be the District Munsiffs' Court if the total of the debt does not exceed Rs. 2,000 and in all other cases the District Court.

17. (1) On receipt of an application under Section 16, the Court shall pass an order fixing a date for hearing the application;

Court's order fixing date, and notice thereof.

(2) Notice of such order shall be sent by registered Anchal or Post acknowledgment due, as well as in such other manner if so prescribed to all the parties to the proceedings.

18. The Court shall determine the admissibility and amount of each such claim and shall for such purpose take all steps necessary for the determination of any question raised in the case. The procedure prescribed in the Travancore Insolvency Act shall *mutatis mutandis* be applicable to such proceedings.

Applicability of the Travancore insolvency Act to proceedings before Court.

19. The Court shall then settle the liabilities of the debtor in the manner mentioned hereunder, namely:—

Settlement of Liabilities
by Court.

(a) One-fourth of the entire assets not exceeding Rs. 3,000 in value shall be allotted to and given over to the debtor free of all encumbrances:

Provided that in such allotment the homestead in which the debtor lives shall wherever possible be allotted to his share.

(b) all the remaining assets shall be distributed and made over to the creditors in proportion to their debts:

Provided that secured creditors shall to the extent of 75 per cent. of their debts be paid in preference to unsecured creditors and only the balance of the assets shall be distributed alike amongst secured creditors for the balance of their debts and unsecured creditors.

20. All alienations made by the debtor during the pendency of an application under Section 16 shall be void as against every creditor to whom a debt is owing on the date of the presentation of the petition.

Alienations by debtor
pending application
under Section 16.

21. During the pendency of an application under Section 16 the Court may stay the execution of any decree against the applicant or his properties.

Court's power to stay
execution of decrees.

22. (1) Nothing contained in this Act shall affect the liability of:—

Restrictions on the
scope of the Act in cer-
tain cases.

(a) any person who has been adjudged an insolvent under the Travancore Insolvency Act, 1108, or

(b) any company which has been ordered to be wound up under the provisions of the Travancore Companies Act, IX of 1114, or any enactments repealed thereby, or

(c) any society ordered to be wound up under the provisions of the Travancore Co-operative Societies Act, 1112, or any enactment repealed thereby.

(2) Notwithstanding anything contained in the Travancore Insolvency Act, 1108, or the Travancore Companies Act, IX of 1114, or the Travancore Co-operative Societies Act, 1112, no claim by a debtor to the benefits conferred by Section 9 or Section 16 shall be deemed to be an act sufficient to constitute the insolvency of the debtor or justifying proceedings for the winding up of the company or the society, as the case may be.

23. In Section 44 of the Civil Procedure Code, 1100, a colon shall be substituted for the full-stop appearing at the end of the section and the following shall be added thereafter, namely:—

Amendment of Civil
Procedure Code.

“Provided that, where the decree is for the payment of money, execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the court, for reasons recorded in writing, is satisfied,

(a) that the judgment debtor, with the object or effect of obstructing or delaying the execution of the decree,—

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property or

(b) that the judgment debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same, or

(c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation.—In the calculation of the means of the judgment-debtor for the purposes of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree.

24. (1) Our Government may make rules for carrying into effect the purposes of this Act.

Power to make Rules.

(2) In particular and without prejudice to the generality of the foregoing power, Our Government may make rules—

- (a) for all matters which are to be prescribed under the Act,
- (b) prescribing the form of, and the fees to be paid in respect of applications mentioned in this Act, and
- (c) for removing any difficulty in giving effect to the provisions of this Act.

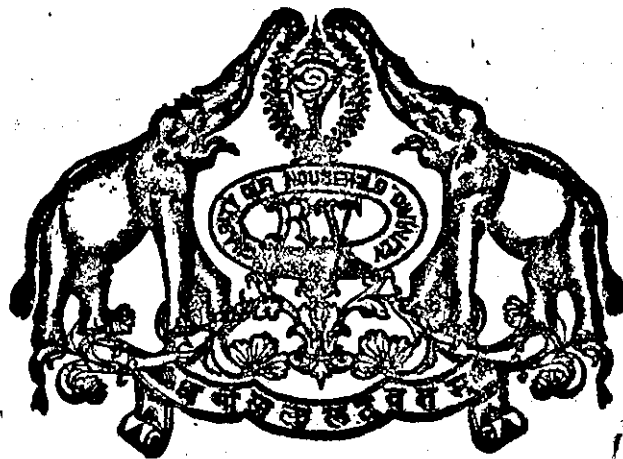
(3) All rules made under this section shall be consistent with the provisions of this Act. They shall be published in Our Government Gazette and upon such publication shall have effect as if enacted in this Act.

25. The Travancore Agriculturists' Relief Act, III of 1112 is hereby repealed :
Repeal.

Provided that such repeal shall not be deemed to affect the operation of Sections 34, 35 and 36 of the said Act during the period those sections were in force.

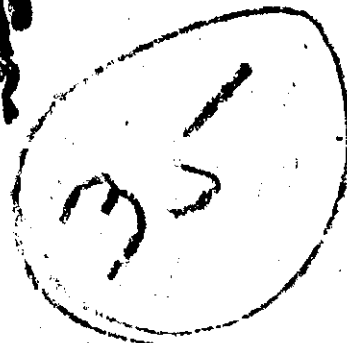
Office of the Secretary to the
 Sri Mulam Assembly,
 Trivandrum, 31st July 1940.

A. GUNAMONY,
 Secretary to the Sri Mulam Assembly.



X9(2):6:(2)

H0



**THE
TRAVANCORE
GOVERNMENT GAZETTE
EXTRAORDINARY.**

PUBLISHED BY AUTHORITY

TRIVANDRUM, MONDAY, 16TH SEPTEMBER 1940.
1ST KANNI 1116.

Act II of 1116

THE TRAVANCORE DEBT RELIEF ACT, 1115.

PASSED BY HIS HIGHNESS THE MAHARAJA OF TRAVANCORE UNDER
DATE THE 31ST CHINGAM 1116 CORRESPONDING TO THE
15TH SEPTEMBER 1940 UNDER SECTION 23 OF
ACT II OF 1108

Whereas it is expedient to make certain provisions in relief of indebtedness; It is hereby enacted as follows:—

Preamble.
Short title, commencement and extent. 1. (a) This Act may be called the Travancore Debt Relief Act, 1115.

(b) It shall come into force at once.

(c) It extends to the whole of Travancore.

Definitions. 2. In this Act, unless there be something repugnant in the subject or context,—

(i) 'Bank' means a public company carrying on in Travancore the business of banking at the commencement of the Act;

(ii) 'Chitty Debt' means a debt due from a foreman to a subscriber or from a subscriber to the foreman in respect of a chitty as defined in the Travancore Chitties Act of 1094;

(iii) 'Creditor' includes his heirs, legal representatives and assigns;

(iv) 'Debt' means any liability in cash or kind, whether secured or unsecured, due from any person whether payable under a decree or order of a Civil or Revenue Court or otherwise;

(v) 'Debtor' includes the heirs and legal representatives of a debtor and any person holding an interest in any property secured for the debt;

(vi) 'Decree' includes an award made under Section 56 of the Travancore Co-operative Societies Act, 1112, or the corresponding provision of the Act repealed thereby;

(vii) 'Person' includes an undivided Hindu family, a marumakkathayam tarwad or tavazhi, but does not include a religious or charitable institution;

(viii) 'Public Company' means a public company as defined in the Travancore Companies Act, IX of 1114, or in the Indian Companies Act 1913, or in the Companies Act of any Indian State or foreign Government and includes a corporation formed in pursuance of any special enactment of Travancore, British India or the United Kingdom or by Royal Charter or Letters Patent;

(ix) 'Usufructuary mortgage' means a mortgage where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorises him to retain such possession until payment of the mortgage money, and to receive the rents and profits accruing from the property, or any part of such rents and profits, and to appropriate the same in lieu of interest or in payment of the mortgage-money or partly in lieu of interest and partly in payment of the mortgage-money.

Application of the Act restricted to debts incurred before the 23rd day of Dhanu 1112.

3. (1) Subject to the provisions of Sections 4 to 7, this Act shall apply to all debts incurred before the 23rd day of Dhanu 1112 and subsisting at the commencement of this Act.

Explanation.—Where a debt incurred before the 23rd Dhanu 1112 has been renewed, included or merged in a fresh document or decree in favour of the creditor on or after the 23rd Dhanu 1112, such debt shall, notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, be deemed to be a debt to which this Act applies.

(2) Notwithstanding anything contained in sub-section (1) or Sections 4, 5, 6 and 7 the provisions of Sections 18, 19, 20, 21 and 23 shall apply to all classes of debts whether incurred before, on or after the 23rd Dhanu 1112.

4. Nothing in this Act shall affect debts and liabilities falling under the following heads:—

Certain debts and liabilities not to be affected.

(a) any revenue, tax or cess payable to Our Government or any liability arising from any transaction with Our Government,

(b) any tax, cess, fees or other payment due to any Municipality, Village Panchayat or Village Union or other local authority or any liability arising from any transaction with them,

(c) any sum due to the Sree Pandaravaka or Sree Padom,

(d) any liability arising out of any transaction in the nature of a lease including a Kauapattom as defined in the Travancore Jenmi and Kudiyan Act of 1071 or any Michavarom or other dues due to an Edavagai by virtue of the provisions of the Travancore Edavagai Act,

(e) any liability arising out of a breach of trust,

(f) any liability in respect of maintenance whether under decree of Court or otherwise,

(g) any wages due in respect of agricultural or industrial labour,

(h) any debt which represents the price of goods purchased for any purpose whatsoever,

(i) any liability arising out of a sale of immovable property in respect of the balance of purchase money for which the vendor has a lien on the property sold,

(j) any debt incurred on or after the 23rd day of Dhanu 1112.

5. (1) Except in the cases mentioned hereunder, nothing contained in this Act

shall affect any usufructuary mortgage.

Applicability of the Act to usufructuary mortgages.

Exceptions.—(a) Any transaction which purports to be a usufructuary mortgage but which is proved to have been intended to be or treated only as a hypothecation.

(b) A claim by the mortgagee whether arising under a decree or otherwise for recovery of the mortgage amount.

(2) Notwithstanding any practice or rule of law to the contrary it shall be competent to the parties to the transactions referred to in Exception (a) of sub-section (1) or any person claiming under them to prove that the transaction purporting to be a usufructuary mortgage was intended to be, or treated as a hypothecation.

6. (1) Nothing contained in this Act shall affect any liability arising from any transaction with a bank if the interest charged in respect of the liability does not exceed nine per cent. per annum.

Applicability of the Act to transactions with a bank.

(2) The provisions of sub-section (1) shall not apply to any chitty debt due to or from a bank.

7. Our Government may, notwithstanding anything contained in this Act, exempt by notification published in Our Government Gazette, any institution or class of institutions under the direct control or management of Our Government or of any other Government or a corporation formed in pursuance of a special enactment for the time being in force in Travancore, British India or the United Kingdom from the operation of all or any of the provisions of this Act.

Government's power of exemption.

8. Notwithstanding anything contained in any law, custom, contract, decree or order of Court to the contrary, any debt may be discharged by payment in instalments in the manner and to the extent specified in Section 9.

Discharge of debts by payment in instalments.

9. (1) If eighty per cent. of the amount of any debt together with future interest that may accrue thereon is repaid within nine years from the date of the commencement of the Act, the whole debt shall, notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, be deemed to be discharged:

Reduction of debts in certain cases.

Provided that—

(a) the first instalment is paid within six months from the date of the commencement of the Act,

(b) subject to the provisions contained in sub-section (3), each of the succeeding instalments is paid within six months of the date of the preceding instalment, and

(c) except in the case of the last instalment, the amount paid at each instalment is not less than six per cent. of the debt subsisting at the commencement of the Act or less than rupees ten whichever is larger.

(2) If, in accordance with the conditions specified in the proviso to sub-section (1)—

(a) seventy-five per cent. of the amount of any debt together with future interest that may accrue thereon is repaid within six years from the commencement of the Act, or

(b) seventy per cent. of the amount of any debt together with future interest that may accrue thereon is repaid within two years from the date of the commencement of the Act, the whole debt shall be deemed to be discharged.

(3) (a) If subsequent to the payment of the first instalment default is made in the due payment of any instalment, such defaulted instalment shall be realisable forthwith.

(b) If default is made in the payment of three consecutive instalments, or the last instalment, the debtor shall not be entitled to claim the benefits of the provisions of sub-section (1) or sub-section (2) and the whole debt together with such interest as may have accrued thereon less any amount that may have already been paid shall be forthwith payable.

(4) Nothing contained in this section shall be deemed to prevent a debtor from claiming the benefits of this section by making payment of any or all the instalments before the due date.

(5) If a creditor refuses to accept any payment made in accordance with the provisions of this section the debtor may within thirty days from the date of such refusal apply to the Court to have such amount deposited for payment to the creditor and such deposit shall be deemed to be a valid payment under this section.

Explanation.—The Court for purposes of this sub-section shall be the Court competent to entertain a suit for the recovery of the debt.

10. Nothing contained in Section 8 or Section 9 shall be deemed to affect the powers of a Court under the Code of Civil Procedure, 1100, or the rights of a creditor to institute a suit for the recovery of his debt :

Saving of powers of Civil Courts.

Provided that the execution of any decree or order of the Court shall not be in contravention of the said sections.

11. In determining the amount of a decree debt for purposes of payment under Sections 8 and 9, notwithstanding anything contained in Section 31 of the Code of Civil Procedure, 1100, or any other law, contract, decree or order of Court to the contrary, not more than one-half of the principal in the case of money debts and not more than the principal in the case of paddy debts shall be deemed payable towards interest up to the date of the decree and not more than a like amount towards interest from the date of the decree.

Calculation of interest in the case of decree debts.

12. No future interest exceeding simple interest calculated at four per cent. per annum in the case of money debts and six per cent. per annum in the case of paddy debts shall be chargeable from the date of the commencement of the Act on any debt to which this Act applies.

Rate of future interest.

13. (1) When in execution of any decree,—

Sales of immovable properties to be set aside in certain cases.

(a) any sale of immovable property has taken place before the first day of Karkatakam 1114, but such sale has not been confirmed before the commencement of this Act, or

(b) any sale of immovable property has taken place on or after the 1st day of Karkatakam 1114 and whether such sale has been confirmed or not,

then notwithstanding anything contained in the Travancore Limitation Act or the Code of Civil Procedure, 1100, or any other law for the time being in force, the debtor may, within ninety days from the commencement of this Act, apply to the Court or authority which held the sale to set aside the sale, and such Court or authority, as the case may be, shall set aside the sale if for payment towards the decree debt one-third of the amount payable under the decree is deposited in Court within six months from the date of the commencement of the Act, and the balance sufficient to make up seventy per cent. of the amount payable under the decree is deposited within a further period of six months :

Provided that no discount shall be taken into account in determining the amount payable under the decree, nor shall such discount be realisable from the debtor, and

Provided further that no sale shall be set aside without notice to the creditor, the auction purchaser and other persons interested in such sale and without affording them an opportunity to be heard in the matter.

(2) On the sale being set aside under sub-section (1), the debt due under the decree shall be deemed to be discharged.

(3) Notwithstanding the generality of the provisions contained in sub-section (1), no sale shall be liable to be set aside if the sale proceeds have been rateably distributed under Section 59 of the Code of Civil Procedure, 1100, or any other law relating to rateable distribution of assets.

14. Where a sale is set aside under Section 13, the auction purchaser, if a stranger, shall be entitled to an order for repayment of any purchase money paid by him in excess of the amount deposited under the said section against the person to whom it may have been paid and shall also have a charge for the amount remaining unrealised therefor over the property sold.

Protection afforded to stranger auction purchaser where sale is set aside under Section 13.

15. (1) If there is a doubt or dispute in respect of the amount payable under Section 9 the debtor may apply for an order fixing the amount.

Power of Court to decide doubts and disputes relating to payments under Section 9.

(2) (a) If the debt is covered by a decree the application shall be made to the Court or authority, as the case may be, which passed the decree ;

(b) If the debt is not covered by a decree, the application shall be made to the Court or authority, as the case may be, competent to pass a decree for the recovery of the debt.

(3) An application under sub-section (1) shall be dismissed if the debtor fails to deposit with the Court or authority before which such application is pending the amount of any instalment which on his admission is payable by him under the provisions of this Act, and no second application for the same purpose shall be entertained.

(4) A proceeding under this section shall for purposes of inquiry and disposal be deemed to be a proceeding to which Section 105 of the Code of Civil Procedure, 1100, applies.

(5) The Court shall by its order determine the amount which the applicant may pay under the provisions of Section 9 and the time within which such payment shall be made and any payment made in accordance with such order shall be deemed to be a valid payment for purposes of Section 9.

(6) An appeal shall lie against any order passed by a Civil Court under sub-section (1) to the Court to which appeals ordinarily lie from a decision of such Court, in a suit for the recovery of the debt and in other cases to the authority notified by Our Government in that behalf.

(7) There shall be no second appeal against any order passed by the appellate Court or authority under sub-section (6).

16. (1) Any individual who is unable to pay his debts under the foregoing provisions of this Act may present an application to the Court within whose jurisdiction he resides or ordinarily carries on business for a full settlement of his debts.

Application to Court in the case of persons unable to pay debts under the Act.

(2) Every such application shall be in writing and shall be signed by the applicant and verified in the manner prescribed by the Code of Civil Procedure, 1100, for signing and verifying plaints.

(3) Every such application shall contain the following particulars, namely:—

- (a) the place where the applicant resides and the place or places where he holds any property movable or immovable;
- (b) the amount and other particulars of all claims against him whether arising before, on or after the 23rd Dhanu 1112, together with the name, address and residence of his creditors;
- (c) the amount and other particulars of all his property including claims due to him together with a specification of the value of such property and the place or places at which any such property is to be found and details of any mortgage, lien or charges thereon;
- (d) a statement that he wants a fair settlement of his debts;
- (e) a statement that he unconditionally leaves all his assets in the control of the Court; and
- (f) other particulars if so prescribed.

(4) The Court for purposes of this section, shall be the District Munsiffs' Court if the total of the debt does not exceed Rs. 2,000 and in all other cases the District Court.

17. (1) On receipt of an application under Section 16, the Court shall pass an order fixing a date for hearing the application.

Court's order fixing date, and notice thereof.

(2) Notice of such order shall be sent by registered Anchal or Post acknowledgment due, as well as in such other manner if so prescribed to all the parties to the proceedings.

18. The Court shall determine the admissibility and amount of each such claim and shall for such purpose take all steps necessary for the determination of any question raised in the case. The procedure prescribed in the Travancore Insolvency Act shall *mutatis mutandis* be applicable to such proceedings.

Applicability of the "Travancore Insolvency" Act to proceedings before Court.

19. The Court shall then settle the liabilities of the debtor in the manner mentioned hereunder, namely:—

Settlement of liabilities by Court.

- (a) One-fourth of the entire assets not exceeding Rs. 3,000 in value shall be allotted to and given over to the debtor free of all encumbrances:

Provided that in such allotment the homestead in which the debtor lives shall wherever possible be allotted to his share;

- (b) all the remaining assets shall be distributed and made over to the creditors in proportion to their debts:

Provided that secured creditors shall to the extent of 75 per cent. of their debts be paid in preference to unsecured creditors and only the balance of the assets shall be distributed alike amongst secured creditors for the balance of their debts and unsecured creditors.

20. All alienations made by the debtor during the pendency of an application under Section 16 shall be void as against every creditor to whom a debt is owing on the date of the presentation of the petition.

Alienations by debtor pending application under Section 16.

21. During the pendency of an application under Section 16 the Court may stay the execution of any decree against the applicant or his properties.

Court's power to stay execution of decrees.

22. (1) Nothing contained in this Act shall affect the liability of,—

Restrictions on the scope of the Act in certain cases.

(a) any person who has been adjudged an insolvent under the Travancore Insolvency Act, 1108, or

(b) any company which has been ordered to be wound up under the provisions of the Travancore Companies Act, IX of 1114, or any enactments repealed thereby, or

(c) any society ordered to be wound up under the provisions of the Travancore Co-operative Societies Act, 1112, or any enactment repealed thereby.

(2) Notwithstanding anything contained in the Travancore Insolvency Act, 1108, or the Travancore Companies Act, IX of 1114, or the Travancore Co-operative Societies Act, 1112, no claim by a debtor to the benefits conferred by Section 9 or Section 16 shall be deemed to be an act sufficient to constitute the insolvency of the debtor or justifying proceedings for the winding up of the company or the society, as the case may be.

23. In Section 44 of the Civil Procedure Code, 1100, a colon shall be substituted for the full-stop appearing at the end of the section and the following shall be added thereafter, namely:—

Amendment of Civil Procedure Code.

“ Provided that, where the decree is for the payment of money, execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied—

(a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,—

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property; or

(b) that the judgment-debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same; or

(c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation.—In the calculation of the means of the judgment-debtor for the purposes of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree.”

24. (1) Our Government may make rules for carrying into effect the purposes of this Act.

Power to make Rules.

(2) In particular and without prejudice to the generality of the foregoing power, Our Government may make rules—

(a) for all matters which are to be prescribed under this Act,

(b) prescribing the form of, and the fees to be paid in respect of applications mentioned in this Act, and

(c) for removing any difficulty in giving effect to the provisions of this Act.

(3) All rules made under this section shall be consistent with the provisions of this Act. They shall be published in Our Government Gazette and upon such publication shall have effect as if enacted in this Act.

25. The Travancore Agriculturists' Relief Act, III of 1112 is hereby repealed:

Repeal.

Provided that such repeal shall not be deemed to affect the operation of Sections 34, 35 and 36 of the said Act during the period those sections were in force.

SIGN MANUAL

ACT III OF 1116.

THE TRAVANCORE DEBT RELIEF (AMENDMENT) ACT, 1116.

PASSED BY HIS HIGHNESS THE MAHARAJA OF TRAVANCORE
UNDER DATE THE 31ST CHINGAM 1116 CORRESPONDING
TO THE 15TH SEPTEMBER 1940.

Whereas it is expedient to amend the Travancore Debt Relief Act, 1115 (Act II of 1116) for certain purposes; It is hereby enacted as follows:—

1. (1) This Act may be called the Travancore Debt Relief (Amendment) Act, 1116.
Short title, commencement and extent.

(2) It shall come into force at once.

(3) It extends to the whole of Travancore.

2. In sub-section (2) of Section 3 of the Travancore Debt Relief Act, 1115 (Act II of 1116) (hereinafter referred to as the said Act),—
Amendment of Section 3, Act II of 1116.

(a) for the words and figures "Sections 4, 5, 6 and 7," the words and figures "Sections 4, 5 and 6" shall be substituted; and

(b) between the word "shall" and the word "apply" the words and figures "subject to the provisions of Section 7" shall be inserted.

3. In Section 4 of the said Act,—
Amendment of Section 4, Act II of 1116.

(a) in clause (d), after the words "the Travancore Edavagai Act" the words "or any Thiruppuvaram," shall be added; and

(b) after clause (i), the following new clause shall be inserted as clause (j) re-lettering the existing clause (j) as clause (k), namely:—

"(j) any debt or debts due to a woman who does not own any other property provided that the total amount of the debt or debts does not exceed three thousand rupees.

Explanation.—For the purpose of this clause, the term 'property' shall not comprise furniture, household utensils, wearing apparel, jewellery in daily use or other personal belongings."

4. In Section 6 of the said Act,—
Amendment of Section 6, Act II of 1116.

(a) in sub-section (1), for the word "liability" where it occurs for the second time, the word "transaction" shall be substituted;

(b) the following shall be inserted as sub-section (2), renumbering the existing sub-section (2) as sub-section (3), namely:—

"(2) If the interest charged in respect of the transaction exceeds nine per cent. per annum, all the provisions of this Act except sub-section (2) of Section 9 shall apply, subject however to the modification that in sub-section (1) of Section 9 the word "two" shall be substituted for the word "nine" occurring in that sub-section;" and

(c) in sub-section (2), [renumbered sub-section (3)], for the word, brackets and figure "sub-section (1)," the words "this section" shall be substituted.

8. THE TRAVANCORE GOVERNMENT GAZETTE EXTRAORDINARY.

Amendment of Section 9, Act II of 1116.

5. In Section 9 of the said Act, the following shall be added as a new sub-section, namely:—

“(6) Nothing contained in the foregoing sub-sections shall affect the rights of any decree-holder to apply for and obtain rateable distribution of the assets of the judgment-debtor under Section 59 of the Code of Civil Procedure, 1100.”

Amendment of Section 19, Act II of 1116.

6. In Section 19 of the said Act,—

(a) in clause (a), for the words “free of all encumbrances” the words “subject only to such liabilities by way of public revenue due on land as defined in the Revenue Recovery Act (Act I of 1068) or any tax, cess, fee, rent, jenmikaram or such other dues chargeable thereon by virtue of any enactment for the time being in force” shall be substituted; and

(b) for clause (b), the following clause shall be substituted, namely:—

“(b) after payment of all liabilities by way of public revenue due on land as defined in the Revenue Recovery Act (Act I of 1068) or any tax, cess, fee, rent, jenmikaram or such other dues chargeable by virtue of any enactment for the time being in force, all the remaining assets shall be distributed and made over to the creditors:

Provided that secured creditors shall, in the order of mutual priority be paid in preference to unsecured creditors, and after payment of all debts due to Our Government or to any local authority, the balance of the assets shall be distributed amongst unsecured creditors in proportion to their debts.”

SIGN MANUAL

B. O. C. No. 904/40/Legis.

NOTIFICATION.

In exercise of the powers conferred by Section 7 of the Travancore Debt Relief Act, 1115 (Act II of 1116), as amended by the Travancore Debt Relief (Amendment) Act, 1116 (Act III of 1116), the Government of His Highness the Maharaja are pleased to exempt, until further orders, the Reserve Bank of India, the Imperial Bank of India and the Travancore Credit Bank from the operation of all the provisions of the said Act.

Huzar Gutcherry,
Trivandrum, 15th September 1940.

(By order)

M. K. NILAKANTA AIYAR,
Chief Secretary to Government.

PRESS COMMUNIQUE.

His Highness the Maharaja has been pleased to assent to the Debt Relief Bill passed by both Chambers of the Travancore Legislature, and the Bill has become law to-day. The new Act is wider in scope and application than similar enactments adopted elsewhere in relief of indebtedness as it affects not only agricultural debts but all debts other than a very little group relating to revenue or dues to Government or local bodies, and some other items of a cognate character. Liabilities arising out of any transaction with Government or any local body, liabilities arising out of breach of trust or maintenance decrees, wages due in respect of agricultural or industrial labour, debts incurred after the 23rd Dhanu 1112 are some of the main items excluded from the operation of the Act.

One noteworthy feature of this Act is that the benefits conferred by it are designedly made applicable to such debtors as are willing to discharge their liabilities by depositing at least a portion of the debt in half-yearly instalments. Debts repaid within a period of 2 years will be reduced to 70 per cent. of the total amount while those paid within 6 years will be reduced to 75 per cent. and those repaid within 9 years will be reduced to 80 per cent. It is further provided that in determining the amount of a decree-debt for purpose of payment, not more than one-half of the principal in the case of money debts and not more than the principal in the case of paddy debts will be payable towards interest up to the date of the decree and not more than a like amount will be payable towards interest from the date of the decree. From the date of the commencement of this Act no future interest exceeding simple interest at 4 per cent. per annum in the case of money debts and 6 per cent. in the case of paddy debts could be charged. Provision is also made for the setting aside, in certain cases, of sales of immovable properties in execution of decrees. If, for payment towards a decree-debt, one-third of the amount payable under the decree is deposited within six months from the date of the commencement of the Act and the balance sufficient to make up 70 per cent. of the amount payable under the decree is deposited within a further period of six months, the sale will be set aside. In the case of persons unable to pay the debts provision has been made for settlement of liabilities by Court under which the debtor will make available to his creditors 75 per cent. of the assets reserving to himself 25 per cent. of such assets but so as not to exceed Rs. 3,000 in value.

Special protection has been extended to banking institutions which have been charging reasonable rates of interest. The Act provides that all transactions with a bank in respect of which the rate of interest charged does not exceed 9 per cent. per annum will be beyond the purview of this Act. Similarly, transactions with the Reserve Bank of India, the Imperial Bank of India and the Travancore Credit Bank have also been declared to be outside the scope of this Act.

Government have, however, noticed certain short-comings in the Bill as passed by both Chambers of the Legislature which have been rectified by an Amendment Act passed by His Highness the Maharaja along with the enactment of the Bill into law. Apart from a few amendments more or less of a formal character calculated effectively to carry out the purposes and intentions of the Act, two provisions have been embodied in the Amendment Act which require special mention.

Among debts excluded from the operation of the Act is now included any debt due to a woman whose sole property consists of the amount of the debt due to her, provided, however that such debt does not exceed Rs. 3,000. This is intended to protect and benefit women who may have to depend for their maintenance or livelihood solely upon the inherited savings invested by them on interest. It may be observed that the Madras Debt Relief Act contains a similar provision.

The next amendment relates to transactions with a bank in respect of which interest has been charged by the bank at rates in excess of 9 per cent per annum. While in respect of ordinary creditors the benefit of the provisions in the Act has been made applicable to debts irrespective of the rates of interest charged or of the amount of the debt,

The Travancore Debt Relief Act, 1115 (Act II of 1116) as amended by the Travancore Debt Relief (Amendment) Act, 1116 (Act III of 1116) is republished below for public information, the two Acts having been separately published in the Travancore Government Gazette Extraordinary dated 16th September 1940/1st Kanni 1116.

Huzur Cutchery,
Trivandrum, 17th September 1940.

A. GUNAMONY,
For Chief Secretary to Government.

THE TRAVANCORE DEBT RELIEF ACT.

(Act II of 1116 as amended by Act III of 1116).

Whereas it is expedient to make certain provisions in relief of indebtedness; It is hereby enacted as follows:—

Preamble.
Short title, commencement and extent.

1. (a) This Act may be called the Travancore Debt Relief Act, 1115.

(b) It shall come into force at once.

(c) It extends to the whole of Travancore.

Definitions.

2. In this Act, unless there be something repugnant in the subject or context,—

(i) 'Bank' means a public company carrying on in Travancore the business of banking at the commencement of the Act;

(ii) 'Chitty Debt' means a debt due from a foreman to a subscriber or from a subscriber to the foreman in respect of a chitty as defined in the Travancore Chitties Act of 1094;

(iii) 'Creditor' includes his heirs, legal representatives and assigns;

(iv) 'Debt' means any liability in cash or kind, whether secured or unsecured, due from any person whether payable under a decree or order of a Civil or Revenue Court or otherwise;

(v) 'Debtor' includes the heirs and legal representatives of a debtor and any person holding an interest in any property secured for the debt;

(vi) 'Decree' includes an award made under Section 56 of the Travancore Co-operative Societies Act, 1112, or the corresponding provision of the Act repealed thereby;

(vii) 'Person' includes an undivided Hindu family, a marumakkathayam tarwad or tavazhi, but does not include a religious or charitable institution;

(viii) 'Public Company' means a public company as defined in the Travancore Companies Act, IX of 1114, or in the Indian Companies Act 1913, or in the Companies Act of any Indian State or foreign Government and includes a corporation formed in pursuance of any special enactment of Travancore, British India or the United Kingdom or by Royal Charter or Letters Patent;

(ix) 'Usufructuary mortgage' means a mortgage where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorises him to retain such possession until payment of the mortgage-money, and to receive the rents and profits accruing from the property, or any part of such rents and profits, and to appropriate the same in lieu of interest or in payment of the mortgage-money or partly in lieu of interest and partly in payment of the mortgage-money.

Application of the Act restricted to debts incurred before the 23rd day of Dhanu 1112.

3. (1) Subject to the provisions of Sections 4 to 7, this Act shall apply to all debts incurred before the 23rd day of Dhanu 1112 and subsisting at the commencement of this Act.

Explanation.—Where a debt incurred before the 23rd Dhanu 1112 has been renewed, included or merged in a fresh document or decree in favour of the creditor on or after the 23rd Dhanu 1112, such debt shall, notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, be deemed to be a debt to which this Act applies.

(2) Notwithstanding anything contained in sub-section (1) or Sections 4, 5 and 6 the provisions of Sections 18, 19, 20, 21 and 23 shall subject to the provisions of Section 7 apply to all classes of debts whether incurred before, on or after the 23rd Dhanu 1112.

4. Nothing in this Act shall affect debts and liabilities falling under the following heads:—

Certain debts and liabilities not to be affected.

(a) any revenue, tax or cess payable to Our Government or any liability arising from any transaction with Our Government.

(b) any tax, cess, fees or other payment due to any Municipality, Village Panchayat or Village Union or other local authority or any liability arising from any transaction with them,

(c) any sum due to the Sree Pandaravaka or Sree Padom,

(d) any liability arising out of any transaction in the nature of a lease including a Kanapattom as defined in the Travancore Jenmi and Kudiyan Act of 1071 or any Michavarom or other dues due to an Edavagai by virtue of the provisions of the Travancore Edavagai Act, or any Thiruppuvaram.

(e) any liability arising out of a breach of trust,

(f) any liability in respect of maintenance whether under decree of Court or otherwise,

(g) any wages due in respect of agricultural or industrial labour,

(h) any debt which represents the price of goods purchased for any purpose whatsoever,

(i) any liability arising out of a sale of immovable property in respect of the balance of purchase money for which the vendor has a lien on the property sold,

(j) any debt or debts due to a woman who does not own any other property provided that the total amount of the debt or debts does not exceed three thousand rupees,

Explanation.—For the purpose of this clause, the term 'property' shall not comprise furniture, household utensils, wearing apparel, jewellery in daily use or other personal belongings.

(k) any debt incurred on or after the 23rd day of Dhanu 1112.

5. (1) Except in the cases mentioned hereunder, nothing contained in this Act, Applicability of the Act to usufructuary mortgages. shall affect any usufructuary mortgage.

Exceptions.—(a) Any transaction which purports to be a usufructuary mortgage but which is proved to have been intended to be or treated only as a hypothecation.

(b) A claim by the mortgagee whether arising under a decree or otherwise for recovery of the mortgage amount.

(2) Notwithstanding any practice or rule of law to the contrary it shall be competent to the parties to the transactions referred to in Exception (a) of sub-section (1) or any person claiming under them to prove that the transaction purporting to be a usufructuary mortgage was intended to be, or treated as a hypothecation.

6. (1) Nothing contained in this Act shall affect any liability arising from any transaction with a bank if the interest charged in respect of the transaction does not exceed nine per cent. per annum. Applicability of the Act to transactions with a bank.

(2) If the interest charged in respect of the transaction exceeds nine per cent. per annum, all the provisions of this Act except sub-section (2) of Section 9 shall apply, subject however to the modification that in sub-section (1) of Section 9 the word 'two' shall be substituted for the word 'nine' occurring in that sub-section.

(3) The provisions of this section shall not apply to any chitty debt due to or from a bank.

7. Our Government may, notwithstanding anything contained in this Act, exempt Government's power of exemption: by notification published in Our Government Gazette, any institution or class of institutions under the direct control or management of Our Government or of any other Government or a corporation formed in pursuance of a special enactment for the time being in force in Travancore, British India or the United Kingdom from the operation of all or any of the provisions of this Act.

8. Notwithstanding anything contained in any law, custom, contract, decree or order of Court to the contrary, any debt may be discharged by Discharge of debts by payment in instalments. repayment in instalments in the manner and to the extent specified in Section 9.

9. (1) If eighty per cent. of the amount of any debt together with future interest that may accrue thereon is repaid within nine years from the date of the commencement of the Act, the whole debt shall, notwithstanding anything contained in any law, contract, decree or order of Court to the contrary, be deemed to be discharged:

Reduction of debts in certain cases.

Provided that—

(a) the first instalment is paid within six months from the date of the commencement of the Act,

(b) subject to the provisions contained in sub-section (3), each of the succeeding instalments is paid within six months of the date of the preceding instalment, and

(c) except in the case of the last instalment, the amount paid at each instalment is not less than six per cent. of the debt subsisting at the commencement of the Act or less than rupees ten whichever is larger.

(2) If, in accordance with the conditions specified in the proviso to sub-section (1)—

(a) seventy-five per cent. of the amount of any debt together with future interest that may accrue thereon is repaid within six years from the commencement of the Act, or

(b) seventy per cent. of the amount of any debt together with future interest that may accrue thereon is repaid within two years from the date of the commencement of the Act, the whole debt shall be deemed to be discharged.

(3) (a) If subsequent to the payment of the first instalment default is made in the due payment of any instalment, such defaulted instalment shall be realisable forthwith.

(b) If default is made in the payment of three consecutive instalments, or the last instalment, the debtor shall not be entitled to claim the benefits of the provisions of sub-section (1) or sub-section (2) and the whole debt together with such interest as may have accrued thereon less any amount that may have already been paid shall be forthwith payable.

(4) Nothing contained in this section shall be deemed to prevent a debtor from claiming the benefits of this section by making payment of any or all the instalments before the due date.

(5) If a creditor refuses to accept any payment made in accordance with the provisions of this section the debtor may within thirty days from the date of such refusal apply to the Court to have such amount deposited for payment to the creditor and such deposit shall be deemed to be a valid payment under this section.

Explanation.—The Court for purposes of this sub-section shall be the Court competent to entertain a suit for the recovery of the debt.

(6) Nothing contained in the foregoing sub-sections shall affect the rights of any decree holder to apply for and obtain rateable distribution of the assets of the judgment debtor under Section 59 of the Code of Civil Procedure, 1100.

10. Nothing contained in Section 8 or Section 9 shall be deemed to affect the power of a Court under the Code of Civil Procedure, 1100, or the rights of a creditor to institute a suit for the recovery of his debt:

Saving of powers of Civil Courts.

Provided that the execution of any decree or order of the Court shall not be in contravention of the said sections.

11. In determining the amount of a decree debt for purposes of payment under Sections 8 and 9, notwithstanding anything contained in Section 31 of the Code of Civil Procedure, 1100, or any other law, contract, decree or order of Court to the contrary, not more than one-half of the principal in the case of money debts and not more than the principal in the case of paddy debts shall be deemed payable towards interest up to the date of the decree and not more than a like amount towards interest from the date of the decree.

Calculation of interest in the case of decree debts.

12. No future interest exceeding simple interest calculated at four per cent. per annum in the case of money debts and six per cent. per annum in the case of paddy debts shall be chargeable from the date of the commencement of the Act on any debt to which this Act applies.

Rate of future interest.

13. (1) When in execution of any decree,—

Sales of immovable properties to be set aside in certain cases.

(a) any sale of immovable property has taken place before the first day of Karkatakam 1114, but such sale has not been confirmed before the commencement of this Act, or

(b) any sale of immovable property has taken place on or after the 1st day of Karkatakam 1114 and whether such sale has been confirmed or not,

then notwithstanding anything contained in the Travancore Limitation Act or the Code of Civil Procedure, 1100, or any other law for the time being in force, the debtor may, within ninety days from the commencement of this Act, apply to the Court or authority which held the sale to set aside the sale, and such Court or authority, as the case may be, shall set aside the sale if for payment towards the decree debt one-third of the amount payable under the decree is deposited in Court within six months from the date of the commencement of the Act, and the balance sufficient to make up seventy per cent. of the amount payable under the decree is deposited within a further period of six months:

Provided that no discount shall be taken into account in determining the amount payable under the decree, nor shall such discount be realisable from the debtor, and

Provided further that no sale shall be set aside without notice to the creditor, the auction purchaser and other persons interested in such sale and without affording them an opportunity to be heard in the matter.

(2) On the sale being set aside under sub-section (1), the debt due under the decree shall be deemed to be discharged.

(3) Notwithstanding the generality of the provisions contained in sub-section (1), no sale shall be liable to be set aside if the sale proceeds have been rateably distributed under Section 59 of the Code of Civil Procedure, 1100, or any other law relating to rateable distribution of assets.

14. Where a sale is set aside under Section 13, the auction purchaser, if a stranger, shall be entitled to an order for repayment of any purchase money paid by him in excess of the amount deposited under the said section against the person to whom it may have been paid and shall also have a charge for the amount remaining unrealised therefor over the property sold.

Protection afforded to stranger auction purchaser where sale is set aside under Section 13.

15. (1) If there is a doubt or dispute in respect of the amount payable under Section 9 the debtor may apply for an order fixing the amount.

Power of Court to decide doubts and disputes relating to payments under Section 9.

(2) (a) If the debt is covered by a decree the application shall be made to the Court or authority, as the case may be, which passed the decree;

(b) If the debt is not covered by a decree, the application shall be made to the Court or authority, as the case may be, competent to pass a decree for the recovery of the debt.

(3) An application under sub-section (1) shall be dismissed if the debtor fails to deposit with the Court or authority before which such application is pending the amount of any instalment which on his admission is payable by him under the provisions of this Act, and no second application for the same purpose shall be entertained.

(4) A proceeding under this section shall for purposes of inquiry and disposal be deemed to be a proceeding to which Section 105 of the Code of Civil Procedure, 1100, applies.

(5) The Court shall by its order determine the amount which the applicant may pay under the provisions of Section 9 and the time within which such payment shall be made and any payment made in accordance with such order shall be deemed to be a valid payment for purposes of Section 9.

(6) An appeal shall lie against any order passed by a Civil Court under sub-section (1) to the Court to which appeals ordinarily lie from a decision of such Court, in a suit for the recovery of the debt and in other cases to the authority notified by Our Government in that behalf.

(7) There shall be no second appeal against any order passed by the appellate Court or authority under sub-section (6).

16. (1) Any individual who is unable to pay his debts under the foregoing provisions of this Act may present an application to the Court within whose jurisdiction he resides or ordinarily carries on business for a full settlement of his debts.

Application to Court in the case of persons unable to pay debts under the Act.

(2) Every such application shall be in writing and shall be signed by the applicant and verified in the manner prescribed by the Code of Civil Procedure, 1100, for signing and verifying plaints.

(3) Every such application shall contain the following particulars, namely:—

- (a) the place where the applicant resides and the place or places where he holds any property movable or immovable;
- (b) the amount and other particulars of all claims against him whether arising before, on or after the 23rd Dhanu 1112, together with the name, address and residence of his creditors;
- (c) the amount and other particulars of all his property including claims due to him together with a specification of the value of such property and the place or places at which any such property is to be found and details of any mortgage, lien or charges thereon;
- (d) a statement that he wants a fair settlement of his debts;
- (e) a statement that he unconditionally leaves all his assets in the control of the Court; and
- (f) other particulars if so prescribed.

(4) The Court for purposes of this section, shall be the District Munsiff's Court if the total of the debt does not exceed Rs. 2,000 and in all other cases the District Court.

17. (1) On receipt of an application under Section 16, the Court shall pass an order fixing a date for hearing the application.

Court's order fixing date, and notice thereof.

(2) Notice of such order shall be sent by registered Anchal or Post acknowledgment due, as well as in such other manner if so prescribed to all the parties to the proceedings.

18. The Court shall determine the admissibility and amount of each such claim and shall for such purpose take all steps necessary for the determination of any question raised in the case. The procedure prescribed in the Travancore Insolvency Act shall *mutatis mutandis* be applicable to such proceedings.

Applicability of the Travancore Insolvency Act to proceedings before Court.

19. The Court shall then settle the liabilities of the debtor in the manner mentioned hereunder, namely:—

Settlement of liabilities by Court.

- (a) One-fourth of the entire assets not exceeding Rs. 3,000 in value shall be allotted to and given over to the debtor subject only to such liabilities by way of public revenue due on land as defined in the Revenue Recovery Act (Act I of 1968) or any tax, cess, fee, rent, jennikaram or such other dues chargeable thereon by virtue of any enactment for the time being in force:

Provided that in such allotment the homestead in which the debtor lives shall wherever possible be allotted to his share;

- (b) after payment of all liabilities by way of public revenue due on land as defined in the Revenue Recovery Act (Act I of 1968) or any tax, cess, fee, rent, jennikaram or such other dues chargeable by virtue of any enactment for the time being in force, all the remaining assets shall be distributed and made over to the creditors:

Provided that secured creditors shall, in the order of mutual priority be paid in preference to unsecured creditors, and after payment of all debts due to Our Government or to any local authority, the balance of the assets shall be distributed amongst unsecured creditors in proportion to their debts.

20. All alienations made by the debtor during the pendency of an application under Section 16 shall be void as against every creditor to whom a debt is owing on the date of the presentation of the petition.

Alienations by debtor pending application under Section 16.

21. During the pendency of an application under Section 16 the Court may stay the execution of any decree against the applicant or his properties.

Court's power to stay execution of decrees.

22. (1) Nothing contained in this Act shall affect the liability of,—

Restrictions on the scope of the Act in certain cases.

(a) any person who has been adjudged an insolvent under the Travancore Insolvency Act, 1108, or

(b) any company which has been ordered to be wound up under the provisions of the Travancore Companies Act, IX of 1114, or any enactments repealed thereby, or

(c) any society ordered to be wound up under the provisions of the Travancore Co-operative Societies Act, 1112, or any enactment repealed thereby.

(2) Notwithstanding anything contained in the Travancore Insolvency Act, 1108, or the Travancore Companies Act, IX of 1114, or the Travancore Co-operative Societies Act, 1112, no claim by a debtor to the benefits conferred by Section 9 or Section 16 shall be deemed to be an act sufficient to constitute the insolvency of the debtor or justifying proceedings for the winding up of the company or the society, as the case may be.

23. In Section 44 of the Civil Procedure Code, 1100, a colon shall be substituted for the full-stop appearing at the end of the section and the following Amendment of Civil Procedure Code. shall be added thereafter, namely:—

“ Provided that, where the decree is for the payment of money, execution by detention in prison shall not be ordered unless, after giving the judgment-debtor an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied—

- (a) that the judgment-debtor, with the object or effect of obstructing or delaying the execution of the decree,—
 - (i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or
 - (ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed, or removed any part of his property, or committed any other act of bad faith in relation to his property; or
- (b) that the judgment-debtor has, or has had since the date of the decree, the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same; or
- (c) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

Explanation.—In the calculation of the means of the judgment-debtor for the purposes of clause (b), there shall be left out of account any property which, by or under any law or custom having the force of law for the time being in force, is exempt from attachment in execution of the decree.”

24. (1) Our Government may make rules for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, Our Government may make rules—

- (a) for all matters which are to be prescribed under the Act,
- (b) prescribing the form of, and the fees to be paid in respect of applications mentioned in this Act, and
- (c) for removing any difficulty in giving effect to the provisions of this Act.

(3) All rules made under this section shall be consistent with the provisions of this Act. They shall be published in Our Government Gazette and upon such publication shall have effect as if enacted in this Act.

25. The Travancore Agriculturists' Relief Act, III of 1112, is hereby repealed :

Provided that such repeal shall not be deemed to affect the operation of Sections 34, 35 and 36 of the said Act during the period those sections were in force.

X 9 (J) : 6 : (222)

(9)



THE TRAVANCORE AGRICULTURISTS' RELIEF REGULATION.

CONTENTS.
PREAMBLE.

Sections.

PART I.

PRELIMINARY.

1. Short title and commencement.
2. Definitions.

PART II.

DEBT CONCILIATION.

3. Setting up of Debt Conciliation Boards.
4. Application for conciliation.
5. Manner of application.
6. Particulars to be stated in application.
7. Procedure on receipt of application.
8. Notice calling upon creditors to submit statement of debts.
9. Procedure on submission of statement of debts.
10. Board to attempt conciliation.
11. Power of Board to take evidence.
12. Conciliation between debtor and creditor and creditors *inter se*.
13. Matters to be considered in conciliation.
14. When transactions may be re-opened.
15. Methods of conciliation.
16. Conciliation agreement.
17. Certificate on failure of conciliation.
18. Deposit of debts upon certificate.
19. Power to disallow costs and future interest if certificate not accepted.
20. Dismissal of application on default.
21. Bar to successive applications.
22. Consequence of refusal to submit statement of debts to Board.
23. Bar of appeal and revision.
24. Decision of Board as to status of agriculturist how far conclusive.
25. Power of Board to review.
26. Bar of civil suits.
27. Appearance before Board by agent or legal practitioner.
28. Bar of suits while application for conciliation is pending.
29. Application may be made to Board even during pendency of proceedings before Court.
30. Extension of limitation.
31. Board members to be public servants.
32. Power to make rules.

PART III.

TEMPORARY PROVISIONS REGARDING EXECUTION OF DECREE AND INTEREST.

33. Recovery of decree debt in instalments.
34. Limitation of interest on past debts.
35. Limitation of interest on future debts.
36. Limitation of interest on past paddy loans.

PART IV.

AMENDMENT OF THE CODE OF CIVIL PROCEDURE, 1100, REGARDING
EXECUTION OF DECREES.

37. Amendment of Civil Procedure Code.
43—A. Limitation of the arrest of agriculturists.

PART V.

MORTGAGE AND LEASE BACK.

38. *Ottis* may be treated as hypothecations.

Regulation III of 1112.

THE TRAVANCORE AGRICULTURISTS' RELIEF REGULATION.

A REGULATION TO MAKE CERTAIN PROVISIONS IN RELIEF OF AGRICULTURAL INDEBTEDNESS

PASSED BY HIS HIGHNESS THE MAHARAJA OF TRAVANCORE UNDER DATE
THE 6TH JANUARY 1937, CORRESPONDING TO THE 23RD DHANU
1112, UNDER SECTION 23 OF REGULATION II OF 1108.

Whereas it is expedient to make certain provisions in relief of agricultural indebtedness;
Preamble. It is hereby enacted as follows :

PART I.

PRELIMINARY.

1. (a) This Regulation may be called "The Travancore Agriculturists' Relief Regulation".
(b) It shall come into force at once.

Short title and com-
mencement.

2. In this Regulation, unless there is anything repugnant in the subject or context,

(a) 'Agriculturist' means a person
Definitions. (i) who earns his livelihood mainly by agriculture and also is either
an owner or a tenant of agricultural land in Travancore or a servant of
such owner or tenant, or

(ii) who earns his livelihood as a village menial paid in cash or in kind for work
connected with agriculture;

and every junior member who as such becomes jointly liable with the *karanavan* or
manager who is an agriculturist for the purpose of making the debt incurred binding on the
tarwad or joint Hindu family shall, for the purposes of such debt, be deemed to be an agri-
culturist under this Regulation even though he may otherwise be a non-agriculturist.

Explanation.—A person shall not be deemed to be a non-agriculturist for the mere reason
that he does not cultivate his lands himself or lives on rent or follows some other calling
in life.

Exception.—Juristic persons, such as e. g. Joint Stock Companies and Devaswoms
holding land shall not be deemed to be agriculturists for the purpose of this Regulation.

(b) 'Agriculture' includes horticulture and the use of land for any purpose of husbandry
inclusive of the keeping or breeding of live-stock, poultry or bees and sericulture and the
growing of fruits, vegetables and the like.

(c) 'Board' means a Debt Conciliation Board established under the provisions of
this Regulation.

(d) 'Creditor' means a person to whom debt is owing.

(e) 'Debt' means any liability of an agriculturist, due in cash or in kind, secured or
unsecured, payable under a decree or order of a Civil Court or otherwise, and whether mature
or not, but shall not include—

- (i) any debt or other liability due to Our Government, or
- (ii) any land revenue or anything recoverable as an arrear of land revenue, or
- (iii) any amount for the recovery of which a suit or application is barred by the
law of limitation for the time being in force, or
- (iv) except for purposes of Part II of this Regulation
 - (i) any debt incurred for purposes of trade, or
 - (ii) any debt due to a Co-operative Society, or
 - (iii) any debt arising out of any transaction of the nature of a lease including
a *kanapattam* transaction falling within the purview of the Travancore
Jenmi and Kudliyan Regulation of 1071.

(f) 'Debtor' means an agriculturist by whom a debt is owing.

(g) 'Prescribed' means prescribed by rules made by Our Government under this
Regulation.

PART II.

DEBT CONCILIATION.

3. (1) (a) Our Government may, for the purpose of amicable settlement between debtors
and their creditors and among the creditors *inter se*, if there be more than
one creditor of the same debtor, (hereinafter called conciliation) establish
Debt Conciliation Boards.

Setting up of Debt
Conciliation Boards.

(b) Our Government shall define the local limits of the area in which a Board shall have jurisdiction.

(c) Our Government may determine the pecuniary jurisdiction of any Board.

(d) The Board shall consist of only one member (hereinafter called Conciliation Officer) who is either an officer or is appointed as an officer in the service of Our Government.

(2) Our Government may cancel the appointment of any Conciliation Officer or dissolve any Board.

(3) (a) Our Government shall notify in Our Government Gazette the establishment of a Board and the appointment of the Conciliation Officer, and the Board shall be deemed to have been established and the Conciliation Officer appointed from the date specified in such notification.

(b) Our Government shall notify in Our Government Gazette the cancellation of the appointment of any Conciliation Officer.

(c) Our Government shall notify in Our Government Gazette the dissolution of a Board; and, from the date specified in such notification, the Board shall cease to exist.

(4) Where a Board is dissolved or otherwise ceases to exist, Our Government may at any time establish another Board for the area for which the former Board was established and may declare the Board newly established to be the successor in office of the Board which has ceased to exist, and such Board shall exercise all the powers under this Regulation.

4. (1) A debtor may make an application for conciliation to the Board established for the area within which he ordinarily resides or, if no Board has been established for that area, to the Board established for any area in which he holds immovable property, but he shall not apply to more than one Board.

(2) Unless the debtor has already made an application under sub-section (1), any of his creditors may make an application to a Board to which the debtor might have applied under that sub-section.

(3) If applications for conciliation in respect of the same debtor are made to more than one Board, such applications shall, in accordance with rules made by Our Government under this Regulation, be transferred to, and dealt with by, one Board as one single application.

(4) No application shall be made under sub-section (1) or sub-section (2) unless the application includes a debt in existence on the date of the commencement of this Regulation.

5. Every application to the Board shall be in writing and be signed by the applicant and verified in the manner prescribed by the Code of Civil Procedure, 1100, for signing and verifying plaints.

6. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely:—

(a) the place where he resides and the place or places where he holds immovable property;

(b) the amount and other particulars of all claims against him together with the name, address and residence of his creditors;

(c) the amount and other particulars of all his property, including claims due to him, together with a specification of the value of such property not consisting of money, and the place or places at which any such property is to be found and details of any mortgage, lien or charge subsisting thereon;

(d) a statement that he wants an amicable settlement of his debts; and

(e) other particulars, if so prescribed.

(2) Every application presented by a creditor shall contain the following particulars, namely:—

(a) the place where the debtor resides or holds immovable property;

(b) the amount and other particulars of his claim against such debtor;

(c) a statement that the debtor is unable to pay his debts or that he (the creditor) wants an amicable settlement of the debts due to him; and

(d) other particulars, if so prescribed.

7. (1) On receipt of an application under Section 4, the Board shall pass an order fixing a date and place for hearing the application.

(2) Notice of the order under sub-section (1) shall be sent by registered Anchal or Post acknowledgment due as well as in such other manner, if so prescribed, to the debtor and creditors.

(3) If the application is filed by a creditor, the debtor on his appearance shall furnish the particulars mentioned in sub-section (1) of Section 6, and notice shall be sent to all creditors specified by him.

8. If, after examining the debtor, it is, in the opinion of the Board, desirable to effect conciliation, the Board shall issue, and serve or publish, in the manner prescribed, a notice calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1100, for signing and verifying claims and shall be submitted to the Board within one month from the date of service or publication of the notice as the case may be:

Notice calling upon creditors to submit statement of debts.

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions in due time, it may extend the period for the submission of his statement of the debts owed to him.

9. (1) Every creditor filing in compliance with a notice issued under Section 8 a statement of the debts owed to him shall furnish, along with such statement, full particulars of all such debts, and shall at the same time produce all documents, including entries in books of account, on which he relies to support his claims, together with a true copy of every such document:

Procedure on submission of statement of debts.

Provided that the Board may exempt for sufficient reasons any creditor from producing any such documents.

(2) The Board shall, if so desired by the creditor, after marking, for the purpose of identification, every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

10. (1) The Board shall call upon the debtor and each creditor to explain his case regarding each debt.

Board to attempt conciliation.

(2) If there is a dispute as to the existence or quantum of the debt due to any creditor or the assets of any debtor, the Board may decide the matter after taking such evidence as is adduced by all the parties concerned, and such decision shall be binding on all parties in all proceedings before the Board:

Provided that a decree of a Civil Court relating to a debt shall be conclusive evidence as to the existence and amount of the debt.

(3) The Board shall prepare a complete schedule of the creditors and the assets and liabilities of the debtor.

11. (1) Subject to rules, if any, made by Our Government under this Regulation, a Board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a Civil Court by the Code of Civil Procedure, 1100.

Power of Board to take evidence.

(2) Any person present may be required by a Board to furnish any information or to produce any document then and there in his possession or power.

(3) Every proceeding before the Board shall be deemed to be a judicial proceeding.

12. It shall be the function of the Board to propose and make a conciliation of all the debts, (including a settlement as to the manner of fully discharging the debts) as between the debtor on the one hand and the creditor or creditors on the other, and as among the creditors *inter se*, if there are more creditors than one.

Conciliation between debtor and creditor and creditors *inter se*.

13. In proposing and making the conciliation, the Board may take into consideration the following *inter alia*, namely:—

Matters to be considered in conciliation.

- (a) the equities of the debt transactions concerned,
- (b) the amount of each of the debts,
- (c) the amount of interest already paid, particularly after the commencement of the year 1105 M. E.,
- (d) the amount of the interest that has been allowed to accumulate,
- (e) the duration of the transaction,
- (f) the character of the debt, as for example, whether it is secured or unsecured, and the purpose of the debt,
- (g) the ability of the debtor to pay,
- (h) the availability of assets out of which the debts may be realised,
- (i) the occupation, needs and other economic conditions of the creditor,
- (j) the needs of the debtor and the necessity for leaving, as far as possible, a margin of property for the debtor's subsistence.

14. If, in the opinion of the Board, there are reasonable grounds to suspect inequity in any transaction, such as, for example, that it is tainted by fraud, misrepresentation, undue influence, coercion, mistake of fact or collusion, the Board shall, in proposing and making the conciliation, go into the history of the transaction and may, in view of such history, reduce or disallow interest or even scale down the principal.

When transactions may be re-opened.

Explanation.—Nothing in this Section is intended to prohibit any disallowance of any claim on the ground that the transaction concerned is vitiated by fraud, misrepresentation, undue influence, coercion, mistake of fact or collusion and is therefore invalid in law.

15. (1) The manner of the conciliation shall be in the discretion of the Board and may, for example, be as follows:—

(a) that the debtor pay the creditor or creditors forthwith, or within a time to be fixed by the Board, a lump sum in cash in full settlement of all the debts, the amount of such lump sum being fixed by the Board having regard to the facts enumerated in Section 13 and to the amount which the debtor may raise by mortgaging his entire properties to the State Land Mortgage Bank or to some such recognised institution, or

(b) that a portion, say one-fourth, of the assets of the debtor be left to the debtor free from all liability for his debts and the balance left to the creditor or creditors to be appropriated by them or to be sold and the sale proceeds distributed amongst them, it being also laid down how the property or the sale proceeds, as the case may be, shall be distributed amongst the creditors, if there are more creditors than one, or

(c) that the debtor pay either the entire amount of the debts, or a reduced amount in full settlement in instalments spread over a number of years to be fixed by the Board, the debtor giving security for the due payment of the instalments and it being provided that, if any instalment is defaulted, such instalment and interest thereon alone be recovered, but that, if three consecutive instalments are defaulted, the entire amount remaining due be recovered :

Provided that under no circumstances shall any reduction be made with respect to debts incurred after the date of the commencement of this Regulation except with the consent of the creditor.

(2) In any scheme of conciliation, such properties as are exempt from attachment under the Code of Civil Procedure, 1100, shall not be taken into account and shall be left to the debtor free from liability for his debts.

16. (1) If the debtor and the creditor or the creditors appearing before the Board agree to the conciliation proposed by the Board, it shall be reduced to writing in the form of an agreement and shall be signed by the debtor and the creditor or creditors and shall also be signed or otherwise authenticated by the Board. Such agreement shall, subject to the rules, if any, made by Our Government, be registered according to the law relating to the registration of documents for the time being in force and filed in the court of the District Munsiff having jurisdiction over the area in which the debtor ordinarily resides and shall have the force of a decree passed by such court in a suit in which the persons who have so signed the agreement or are deemed under the provisions of this Regulation to have so signed are parties and shall be capable of being put in execution as if it were a decree of such Court.

(2) Notwithstanding anything contained in sub-section (1), the Board may, by a notice in writing and in the form prescribed, intimate to any person affected by any conciliation proposed by the Board or agreed to by the debtor and the creditor or creditors who have appeared before the Board, the particulars of such conciliation and call upon him to state within a time specified in the notice whether he agrees to the conciliation and is prepared to sign the conciliation agreement. If, in response to any such notice, any person, whether a debtor or creditor, does not, within the time specified in the notice or within such further time as the Board may grant, express to the Board his disagreement with the conciliation, he may, if so ordered by the Board, be deemed to have agreed to the conciliation and signed the agreement within the intent of sub-section (1) and the Board shall endorse or state in the agreement that it is deemed to have been signed by such person also :

Provided that, if it is proved to the satisfaction of the Civil Court whenever the question arises before such Court that the notice was not properly served on such person or if it is proved that, though the notice was properly served on him, he was prevented by sufficient cause from not expressing his views to the Board, the agreement shall not have effect as a decree so far as he is concerned.

(3) For the purpose of the registration of the agreement under sub-section (1), the Board shall be deemed to be an Officer of Our Government empowered to execute such agreement within the meaning of Section 82 of the Travancore Registration Regulation, 1087.

17. (1) If all the parties appearing before the Board do not agree to the conciliation proposed by the Board, the Board may for reasons to be recorded in writing reject the application for conciliation or may record a certificate setting forth the attempts made by the Board to bring the parties to agreement, the various methods of conciliation suggested to them, the attitude of each of the parties in regard to such methods and what, in the opinion of the Board, would be a most satisfactory manner of settlement between the debtor and the creditors and what amount, in the opinion of the Board, would, having regard to all the circumstances, be a fair amount for the creditor or creditors to accept and the debtor to offer if the debtor were prepared to pay forthwith in cash in full settlement of all the debts.

(2) The Board may record a like certificate even as regards parties who have not appeared before the Board, or not taken part in the inquiry before the Board, if the Board is satisfied that it can come to a reasonable conclusion as to what will be a fair settlement in the case of such parties also.

(3) The Board shall send such certificate to the Court of the District Munsiff having jurisdiction over the place where the debtor ordinarily resides for being filed in that Court.

18. Upon the certificate being filed or a copy of it being produced, it shall be open to the creditor or any of the creditors to apply to the Court to call upon the debtor to deposit in Court the amount mentioned in the certificate as the fair amount for settlement by cash payment. Upon such application being made, the Court shall order the debtor to make the deposit within such time as it may think reasonable not exceeding, in any case, three months from the date of the order to make the deposit. The deposit so made in such time shall be deemed to be in full settlement of such claims of the creditor as are dealt with in the certificates.

Explanation.—The deposit so made shall not be liable to be proceeded against for the claims of any other person against the debtor.

19. If, in respect of any debt covered by the certificate of the Board, the creditor institutes a suit or makes an application (not being an application under Section 18) in any Civil Court, such Court, having regard to the certificate and the conduct of the parties in connection therewith, may, in its discretion, disallow in whole or in part the costs of the suit or of the application, as the case may be, and may also, in its discretion, reduce the amount of the interest remaining due for the period from and after 1st Chingon 1105 up to the date of the decree or order or the application, as the case may be, by reducing the rate of the interest to any rate which is not less than either one-half of the stipulated rate or four per cent. per annum whichever is higher.

Power to disallow costs and future interest if certificate not accepted.

20. (1) An application under Section 4 may be dismissed by the Board at any stage of the proceedings—

Dismissal of applications.

(a) if, in the opinion of the Board, the applicant fails to pursue his application with due diligence:

Provided that, when such applicant is a creditor, the Board, instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Regulation; or

(b) if, for reasons to be stated in writing, the Board considers it not desirable or practicable to effect a conciliation; or

(c) if the application includes a claim which, in the opinion of the Board, is collusive and intended to defraud any creditor.

(2) Notwithstanding anything in sub-section (1), the application shall be deemed to have been dismissed if within the prescribed period the application has not been disposed of by the Board:

Provided that this sub-section shall not apply for a period of three months after the prescribed date where the conciliation officer, for reasons to be recorded in writing, orders that an extension of the prescribed period is necessary in the general interests of the parties before him.

21. If once an application has been made by any person under Section 4 and disposed of, no Board shall entertain an application from any person in respect of the same debtor within two years from the date of the disposal of the first application.

Bar to successive applications.

22. If, in compliance with a notice under Section 8 proved to have been served on him, a creditor does not duly furnish the statement of the debts owed to him, any conciliation agreement effected under Section 16 specifically providing for the debts owed to such creditor, shall have effect, as regards such creditor also, exactly as if he had appeared and agreed to the conciliation and signed the conciliation agreement:

Provided that, if the creditor proves to the satisfaction of the Board, wherever the question arises before the Board, or to the satisfaction of the Court, wherever the question arises before a Civil Court, that he had sufficient cause for not furnishing the statement, the Board or the Court, as the case may be, may proceed as if no conciliation agreement had been entered into in regard to the debts owed to him.

23. No appeal or application for revision shall lie to any Court against any order passed by the Board.

Bar of appeal and revision.

24. The decision by a Board that a person is or is not an agriculturist shall be conclusive for all the purposes of the Board and for the purposes of all proceedings arising out of any conciliation or certificate recorded by the Board.

Decision of Board as to status of agriculturist how far conclusive.

Explanation.—If for any other purpose the question arises before any Court of law whether a person is or not an agriculturist, the Court shall decide the question for itself and such decision shall be liable to be appealed against as a decree of the Court.

25. A Board may, on the application of any person interested, review any order passed by it (not being a certificate recorded by the Board under Section 17) and pass such order as it thinks fit:

Provided that it shall not under this Section pass an order reversing or modifying any order affecting any person interested without giving such person an opportunity of being heard:

Provided, further, that no application for review shall be entertained if presented more than three months from the date on which the applicant came to know of the order after the date of the order which the person interested seeks to have reviewed.

26. No Civil Court shall—

Bar of Civil Suits.

(a) question the validity of any procedure of a Board, or

(b) entertain a suit by any person to recover any amount due under, or any debt covered by, a conciliation agreement binding on him.

A.

Explanation.—Nothing in this Section is intended to affect the right contemplated in the proviso to sub-section (2) of Section 16 or in the proviso to Section 22.

27. In any proceedings before a Board, any party may be represented by an agent authorised in writing or by a legal practitioner.

Appearance before Board by agent or legal practitioner.

28. Except for special reasons to be recorded in writing, no Court of law shall entertain or allow to be prosecuted, any suit, application for the execution of a decree or other proceedings for the recovery of any debt for the settlement of which an application is pending before a Board.

Bar of suits while application for conciliation is pending.

29. The pendency of any suit or any application for the execution of a decree or any other proceedings in any Court of law for the recovery of any debt shall not be a bar to any party to such proceedings to making an application to a Board as provided in this Regulation.

Application may be made to Board even during pendency of proceedings before Court

30. The time occupied by the proceedings before a Board for the settlement of any debt, the time during which any application under Section 18 is pending disposal and the time during which a person is debarred by Section 28 from instituting or prosecuting a suit, an application for the execution of a decree or other proceedings shall be excluded in computing the period of limitation prescribed for any suit, application or other proceedings in respect of the debt by the law of limitation for the time being in force.

Extension of limitation.

31. The members of Boards shall be deemed to be public servants within the meaning of the Travancore Penal Code.

Board members to be public servants.

32. (1) Our Government may make rules to carry out the purpose of this Part of this Regulation.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, Our Government may make rules—

- (a) prescribing the pecuniary and local jurisdictions of Boards,
- (b) regulating the procedure of Boards,
- (c) prescribing the charges to be made by Boards for anything done under this Regulation and the persons by whom and the manner in which such charges shall be paid,
- (d) prescribing the records to be kept and the returns to be made by Boards,
- (e) providing for the transfer of any application for conciliation from one Board to another, for one or more such applications being dealt with together, or for any class of such applications being dealt with by any specified Board,
- (f) prescribing the place at which and the manner in which an agreement shall be registered,
- (g) prescribing the form for agreements under Section 16 and certificates under Section 17,
- (h) prescribing the fees for the execution of decrees declared as such under the provisions of Section 16,
- (i) prescribing forms for notices to be issued by Boards and the proceedings of Boards,
- (j) generally for the purpose of carrying into effect the provisions of this Part of this Regulation, and
- (k) providing for any matter for which rules may be made.

(3) The power conferred by this Section, of making rules is subject to the condition that the rules be made after previous publication.

(4) In making any rule, Our Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and where the breach is a continuing one with further fine which may extend to ten rupees for every day after the first during which the breach continues.

PART III.

TEMPORARY PROVISIONS REGARDING EXECUTION OF DECREE AND INTEREST.

33. (1) Notwithstanding anything in any law, contract, decree or order of Court, for a period of three years from the date of the commencement of this Regulation, it shall be lawful, having regard to the circumstances mentioned below, for any Court executing a decree not being a decree declared as such under Section 16 to order that any money recoverable under the decree from a debtor be recovered in such number of instalments not exceeding twenty-four and spread over a period, not exceeding twelve years in any case, as the Court may in its discretion fix. It shall also be lawful during the said period of three years to revise from time to time the number of instalments once fixed by the Court. The circumstances referred to are the following:—

Recovery of debt in instalments.

- (i) The amount of the money recoverable under the decree.

(ii) The period for which the decree and the transaction which is the basis of the decree have been outstanding.

(iii) That adequate security has been given for the amount.

(iv) That the debtor has been making honest efforts to make payment.

(v) That the debtor has executed any document with a view to defeat or delay, or having the effect of defeating or delaying, his creditors.

(vi) The need and other economic conditions of the decree-holder.

(vii) That the decree-holder is prepared to accept in full settlement the amount that the debtor may raise from the State Land Mortgage Bank or any other such institution by mortgaging his entire properties.

(viii) That the debtor is prepared to pay the first instalment in cash forthwith or that he is not prepared to pay such first instalment, or any portion of it, forthwith or within such time as the Court may fix,

(2) No Court shall order under sub-section (1) that any money recoverable under a decree be recovered in instalments unless the debtor's entire properties, if any, (except such property which by or under any law for the time being in force is exempt from attachment and sale in execution of the decree) are placed under attachment or, if the debtor so elects, the debtor gives all his properties as security or gives adequate security to the satisfaction of the Court for the realisation of the entire money recoverable under the decree and unless the debtor pays forthwith the full amount of the proposed first instalment or such portion of it as may be fixed by the Court.

(3) Whenever any debtor makes default in payment of the amount of any instalment fixed under sub-section (1), the Court shall, except for reasons to be recorded in writing, order the recovery of the amount of such instalments alone as have been defaulted, together with the interest, if any, thereon. But if three instalments have been defaulted consecutively, the Court shall, except for reasons to be recorded in writing, order that the entire amount remaining recoverable under the decree together with interest, if any, thereon shall be recovered in a lump sum :

Provided that nothing in this Section shall apply to any decree passed for the recovery of any debt incurred after the commencement of this Regulation.

34. Notwithstanding anything in any law, contract, decree or order of Court, no interest shall accrue, or be permitted to be recovered as accruing, for a period of three years from the date of the commencement of this Regulation, in respect of any debt (not due in paddy or grain) in existence on such date, at any rate exceeding six per cent. per annum.

Explanation.— If the rate of interest recoverable, if this provision had not been enacted, exceeds the rate of six per cent. per annum, interest shall accrue and be permitted to be recovered as accruing at the rate of six per cent. per annum. But if the rate of the interest recoverable be six per cent. per annum or less, the interest shall be at that rate.

35. Notwithstanding anything in any law, contract, decree or order of Court, no interest shall accrue, or be permitted to be recovered as accruing, for a period of three years from the date of the commencement of this Regulation, in respect of any debt arising after such date at any rate exceeding six per cent. per annum if the debt be a secured debt, or nine per cent. per annum if the debt be an unsecured debt, provided that, in the case of decrees debts, the interest shall in no case exceed six per cent. per annum for the said period of three years.

Explanation.— If the rate of interest recoverable, if this provision had not been enacted, be more than six per cent. per annum or nine per cent. per annum, as the case may be, the interest shall accrue and be permitted to be recovered as accruing at six per cent. or nine per cent. per annum, as the case may be. But if the interest recoverable be six per cent. or less or nine per cent. or less, as the case may be, the interest shall be at such rate.

36. Notwithstanding anything in any law, contract, decree or order of Court, no interest shall accrue, or be permitted to be recovered as accruing, for a period of three years from the date of the commencement of this Regulation in respect of any debt, due in paddy or grain, and in existence on such date, at any rate exceeding nine per cent. per annum.

Explanation.— If the rate at which interest is recoverable, if this provision had not been enacted, exceeds nine per cent. per annum, interest shall accrue and be permitted to be recovered as accruing at the rate of nine per cent. per annum. But if the rate of interest recoverable be nine per cent. or less, the interest shall be at that rate.

PART IV.

AMENDMENT OF THE CODE OF CIVIL PROCEDURE, 1100, REGARDING EXECUTION OF DECREES.

Amendment of Civil Procedure Code. 37. In the Code of Civil Procedure, 1100,—

After Section 48, the following Section shall be inserted, namely :—

“ 48 A (1) Notwithstanding anything in this Part, the Court shall not order the arrest or detention in the civil prison of any agriculturist in execution of any decree for the payment of money unless, after giving him an opportunity of showing cause why he should not be committed to prison, the Court, for reasons recorded in writing, is satisfied—

Limitation of the arrest of agriculturists.

(a) that he, with the object or effect of obstructing or delaying the execution of the decree,

(i) is likely to abscond or leave the local limits of the jurisdiction of the Court, or

(ii) has, after the institution of the suit in which the decree was passed, dishonestly transferred, concealed or removed any part of his property or committed any other act of bad faith in relation to his property; or

(b) that he has or has had since the date of the decree the means to pay the amount of the decree or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same; or

(c) that the decree was passed on the basis of, or on account of, a transaction entered into by him on an express statement in writing that he is not an agriculturist; or

(d) that the arrest or detention applied for is in enforcement of any liability arising out of any transaction entered into with any Co-operative Society; or

(e) that the decree is for a sum for which the judgment-debtor was bound in a fiduciary capacity to account.

(2) Nothing in sub-section (1) shall apply in the case of any decree for the payment of money passed on the basis of, or on account of, any transaction entered into before the commencement of the Travancore Agriculturists' Relief Regulation. But, in the execution of any such decree, the Court shall not order the arrest or detention in the civil prison of any agriculturist if he submits to the Court a declaration in writing that he is not able, without time being allowed, to pay up the decree amount and submits also a list of his entire properties, movable and immovable, (except such property which by or under any law for the time being in force is exempt from attachment and sale in execution of the decree) with particulars sufficient to identify them, undertaking in writing not to alienate or encumber any of such properties without specific authority granted by the Court to do so. If he has not submitted such a declaration or such list or has not given such undertaking or if it is proved at any time to the satisfaction of the Court that the list is incomplete or incorrect in material particulars or that he has alienated or encumbered any of such properties against the undertaking, the Court may order his arrest or detention in the civil prison.

(3) Wherever the Court has reason to suspect that any person against whom an application for arrest or detention in the civil prison in the execution of any decree for the payment of money is made is an agriculturist, the Court shall, before granting the application, give him an opportunity of showing cause why he should not be committed to prison.

(4) Nothing in this Section is intended to permit the arrest or detention in civil prison of any agriculturist if such arrest or detention is prohibited by any other provision of law.

Explanation.—(i) "Agriculturist" means an agriculturist within the meaning of the Travancore Agriculturists' Relief Regulation.

(ii) In the calculation of the means of the judgment-debtor for the purpose of clause (b) of sub-section (1), there shall be left out of account any property which by or under any law for the time being in force is exempt from attachment or sale in execution of the decree."

PART V.

MORTGAGE AND LEASE BACK.

38. If any transaction which is in existence on the date of the commencement of this Regulation and which purports to be a usufructuary mortgage (*Otti*) is proved to have been intended to be only a hypothecation, such transaction shall, notwithstanding any law or custom to the contrary, be treated, for a period of three years from such date, as a hypothecation which came into existence on such date:

Provided that nothing in this Section shall exempt the mortgagor from liability to arrears of pottom, if any, due in respect of such transaction for any period previous to such date.

Illustration.—A lent Rs 1,000 to B and took a usufructuary mortgage of B's property and leased the mortgaged property to B reserving an annual pottom of Rs. 120 intending to provide thereby for the interest due on the money lent; and this transaction is in existence on the date of the commencement of this Regulation. This transaction may, for a period of three years from the date of the commencement of this Regulation, be treated as a hypothecation that came into existence on such date; and during that period the rights between the parties may be adjusted on that basis.

2. The intention of the Government in appointing this committee was to provide some credit facilities to the agriculturists who may be benefited under the Act. The committee has recommended the issue of credit bonds for this purpose. The committee has also advocated that creditors must be compelled to accept these bonds in lieu of the scaled down debts due to them. Since the committee was set up by Government, the conditions of the money market have been upset on account of the European war. After a careful consideration of the whole situation in the light of the situation created by the war, Government have come to the conclusion that it would not be advisable to undertake the issue of credit bonds as contemplated in the committee's report. Government however hope that debtors who get the benefit under the Act would utilise the machinery of the Land Mortgage Bank to enable them to pay off their creditors.

3. Government wish to place on record their appreciation of the valuable services rendered by the Chairman and members of the Committee.

(By order of the Government of Cochin)

K. P. KANNAN NAYAR

Secretary to Government

REPORT OF THE AGRICULTURISTS' RELIEF ENQUIRY COMMITTEE

This Committee was appointed as per Government Proceedings, dated 11th August, 1939, L-4-24665/14, Law Department, which ran as follows.—

"During the third reading of the Agriculturists' Relief Bill, the Diwan gave an undertaking in the Legislative Council that a Committee would be set up for the purpose of examining the possibility of Government rendering help to Agricultural debtors who will be benefited by the Act, by way of providing some credit facilities to enable the debtors to pay off their creditors. In pursuance of this undertaking, Government are pleased to constitute a Committee from the 1st of Chingam 1115, consisting of the following members.—

2. The terms of reference to the Committee are as follows.—

- (i) To examine in what way it would be possible for Government to provide credit facilities to agriculturists who will get benefit under the Cochin Agriculturists' Relief Act;
- (ii) What should be the form in which such credit should be made available, and what should be the machinery through which the scheme is to be worked;
- (iii) What should be the terms and conditions regarding security, interest rate and period of repayment for such credits.
- (iv) Whether it is desirable to make any provision for compelling the creditors to accept in discharge of the debts due to them credit bonds of Government, in case it is decided that the help to be rendered is to take the form of the issue of credit bonds.
- (v) To make recommendations generally for implementing the object in view.

2. The Committee held its first meeting in the Diwan Peishkar's Office at Trichur on 20th Chingam 1115. At that meeting it was decided to issue a questionnaire and its terms were settled. The questionnaire was published in the Government Gazette and copies of it were sent to several leading men of the State for their opinion. 83 replies were received to the questionnaire. These replies were considered and the several points raised in the terms of reference were discussed at the two subsequent meetings held on 20th Thulam 1115 and 26th Kanni 1115 respectively. As a result of these discussions some tentative proposals were arrived at and those proposals were affirmed with some modifications at the final sittings on 14th Thulam 1115 and 17th Thulam 1115. We take this opportunity of thanking of all those who have helped the Committee with their views.

3. The Government Proceedings above referred to, say, that the Committee has been set up "for the purpose of examining the possibility of Government rendering help to *Agricultural debtors who will be benefited by the Act.*" (The italics are ours). Some doubt was expressed at the first meeting whether it was the intention of the Government to make a distinction between Agricultural generally and agricultural debtors who will be benefited by the Act and to restrict the benefit of the new scheme to the latter class only. But such a distinction, even if intended, would not in our opinion make such difference because practically all the agricultural debtors will be benefited by the Act one way or the other.

4. That the agriculturists as a class are heavily in debt is not disputed. The Agriculturists Relief Act enables them to have their debts scaled down to some extent; but to secure the benefit of the Act they must have the wherewithal to pay off their creditors. Under the conditions now prevailing, agriculturists can command very little credit in the market and it will be impossible for them to repay their debts without external help. It is, therefore, absolutely necessary that Government should come to their rescue by providing them with credit facilities. What is the best way in which Government can do so is the question for consideration. In our opinion the only possible course as matters now stand is the issue of long-term loans by Government. Such a course may not be feasible if the idea is to redeem the whole debt of the agriculturists unless Government could find the crores of rupees that would be necessary for the purpose. Evidently that does not seem to be the idea of Government. They apparently want only to ease the situation by enabling a large number of agriculturists to discharge their debts under the

advantageous terms offered by the Act. That could surely be achieved by the issue of long-term loans. The only other course suggested by a few of those who have sent replies to the questionnaire is to compel the creditors to accept the lands of debtors in discharge of their debts. But this does not fall within the purview of our enquiry.

5. The loans may carry interest at 5 per cent and be made repayable in 30 equated annual instalments. Now that the normal rate of interest as between private parties has been reduced to 6 per cent, it is only fair that Government should demand only a lower rate. As to the period of the loan, the longer the period the smaller will be the annual instalment to be paid by the debtor. In fact in some of the continental countries the term of loans extends even up to 75 years. But we think that in the conditions prevailing in the State a period of 30 years is sufficiently long. The annual instalments should be made to fall due during seasonal periods. Thus, where the security consists mainly of coconut gardens, the due date may be in any of the months from Makaram to Medam. Similarly in the case of wet lands the due date may be made to fall within two months of the harvesting season. No penal interest need be levied in case of default, but Government should have the power to bring the property at once to sale without the intervention of Court.

6. It is necessary to fix a maximum for the amount payable as loan to each borrower. We would fix the maximum at Rs. 10,000, but to avoid cases of hardship, the authorities issuing the loan may be empowered to increase the amount up to Rs. 15,000 in exceptional cases where the security is ample and the authorities are satisfied that there would be no difficulty in recovering the amount. The granting of loans above Rs. 10,000 should be left entirely to the discretion of the issuing authority. We are against the issue of large amounts by way of loan not because we are not alive to the necessity of rendering help to agriculturists who have heavy debts to repay, but because of the difficulty experienced in recovering the amount if default is made. In the case of such loans the security would consist of large estates worth thousands of rupees and there will be very few people in the neighbouring villages who could afford to purchase such estates. The debtor who goes in for a big loan will be a man of influence in the locality and nobody may dare to incur his displeasure by bidding the property. There is also the possibility of the fund available with Government being exhausted by the rich, leaving the smaller agriculturists in the lurch. The Central Banks in Berar are now in trouble. Their liabilities exceed their assets by more than 16 lakhs. One of the reasons for this unsatisfactory state of affairs is stated to be "the accumulation of large loans in the hands of a few big borrowers. From the annual report on the working of the Co-operative Department of 1937-38 it appears that 15.3 per cent of the borrowers have monopolised 80 per cent of the loan and 175 persons owe the large sum of Rs. 19.96 lakhs". (Madras Journal of Co-operation, Volume XXXI, No 3, page 190). For all these reasons we would insist upon the greatest care and caution being exercised in granting loans above Rs. 5,000. As to the minimum we recommend that it may be fixed at Rs. 100 which we think will be the lowest denomination of the bonds that will be issued.

7. As regards the kind of security for loans, all are agreed that land alone should be accepted as security. Shops and other buildings may be taken if they are insured. There was some difference of opinion as to the amount of loan that could be advanced on such security. Some of the members were of the view that the loan should not exceed 5 per cent of the value of land while others contended that the minimum should be at least 60 per cent of the value, if not more. The Land Mortgage Bank is now generally advancing only 50 per cent of the value though the bye-laws provide for a maximum of 75 per cent. There is, however, one difference. When, as we propose to do, interest is reduced to 5 per cent and the period extended to 30 years, the amount of the annual instalments will be less than what is payable under the rules of the Land Mortgage Bank. Therefore the chances of default will be less and, it is argued, a corresponding increase may be made in the amount of loan. There is some force in this argument. It may be noted that the Land Mortgage Bank also in some cases goes up to 60 per cent where the repaying capacity of the borrower is exceptionally good. We may also observe that amongst those who have sent in replies to the questionnaire, a fairly good number advocate the fixing of the minimum at 60 per cent. The position of similar institutions in the continental countries may be stated thus.

"The rules and regulations which govern the operations of these institutions are very strict. The size of an individual loan is rarely over 2/3 the value of the mortgaged property, carefully calculated by arbitrary formulae. Usually it is one half the value, and only properties yielding or capable of yielding a steady and permanent revenue may be used for security, the general rule being that the revenue must equal at least the annuity which the borrower obligates himself to pay."

(Herrick on Rural Credits, Page 216)

Considering all these circumstances we would recommend that a debtor would be entitled to 60 per cent of the value of land where the loan does not exceed Rs. 5,000; to 50 per cent where the loan exceeds Rs. 5,000 but does not exceed Rs. 10,000 and to 40 per cent where the loan exceeds Rs. 10,000.

8. There is the allied question whether apart from the sufficiency of security the repaying capacity of the borrower need be considered. On this point also opinion was divided. One view was that where the security was sufficient the repaying capacity of the borrower need not be considered while according to the other view a scrutiny as to repaying capacity was essential even where the security offered was sufficient. We propose to give below the reasons adduced in support of both the views so that Government may be in a position to consider both the aspects of the question. The members who insisted upon the necessity of a scrutiny of the repaying capacity based their case on the following circumstances.—

Security and repaying capacity are two necessary prerequisites for long-term loans and they are intended to serve two different purposes; the one to recover the loan in the event of default and the other to ensure the regular payment of instalments. The income from land being comparatively small it often becomes impossible for the borrower to pay the instalments unless he has some other source to supplement that income. To take a concrete case; if our recommendations are accepted a man who owns land worth Rs. 1,000 will be entitled to get a loan of Rs. 600 on the security of that land. The income from

this land—putting it as high as 4 per cent which is rarely the case—will be Rs. 40. That will be only just sufficient to cover the annual instalment on that loan namely Rs. 39 (Rs. 6—8—0 for Rs. 103). Suppose he has no other means of livelihood; he will naturally enough appropriate a portion of the income of the secured land to maintain himself and his family, thereby seriously crippling his ability to pay the instalments. The result will be the immediate sale of his property by summary process to recover the loan. Here we have case where though the security is sufficient, repaying capacity is bad, giving occasion for future trouble. In such cases the issue of loans would do more harm than good, to the borrower. The repaying capacity need not always be of a high order. In the case of a poor agriculturist it may consist in his ability to do manual labour and earn something. All the same it would seem necessary to consider whether he has that capacity. Of course if the Government would be satisfied with land, the borrower's capacity to repay need not be looked into. But if Government want the money back in fluid cash, as we believe, they do in view of their large financial commitments, then a scrutiny on that point would seem to be essential.

9. The indiscriminate issue of loans without due regard to the sufficiency of security and repaying capacity has spelt the ruin of many a bank. Their credit gets frozen. They become saddled with vast domains of land which they find it impossible to dispose of. In Russia, the Peasants' State Land Bank lent money to farmers to acquire and improve farm lands. It advanced loans to the extent of 80, 90 and even 100 per cent of the value of land. The result is described thus.—

“Although the Peasants' State Land Bank procures this cheap and easy money for its borrowers, it has always encountered great difficulty in collecting its loans. The farmers seem to think that in as much as the Government has taken such pains in helping them to acquire land, it ought to go the full length and let them have it free. Indeed the ex-serfs of the crown and public domains appear never to have any intention of paying their annuities. The defaults were so numerous heavy and long continued, that the Government dared not resort to forcible measures for fear of insurrection, and in 1907, realising that there was no hope of recovery, it renounced all rights to overdue annuities and charges and thereby released the farmers from a debt the capitalised value of which was 839, 820, 800 dollars”.

(Herrick on Rural Credits, Page, 171)

Reference has already been made to the failure of the Central Banks in Berar. It appears that those banks have now on hand land worth more than 30 lakhs of rupees, and the Government (Central Provinces) are now devising ways and means to get rid of that incubus. The main cause for this accumulation of land is stated to be “heavy financing before and during the boom period and more on the basis of assets than on the paying capacity.” (Madras Journal of Co-operation Volume XXXI, No. 3, Page 169).

10. We should guard against such a possible contingency. It would appear that all banking institutions conducted on sound lines for the issue of long-term loans insist upon this test. All those who have had some experience in this line are also insistent on the point. Rao Bahadur C. Gopala Menon, whose long connection with the Central Land Mortgage Bank, Madras, and other Credit Societies entitles him to be regarded as an authority on the subject says in his reply.—

“It is not desirable that the State or Land Mortgage Banks working under its control should advance moneys to persons who have no adequate repaying capacity. The purpose in view when the State enters the field of credit directly or indirectly is that it should save to the agriculturists as such as it possibly could. It may do more harm to the agriculturists if it lends to one who has no adequate repaying capacity because when default occurs, the loan is recalled and the property brought to sale.”

Mr. K. Narayana Menon, Registrar of Co-operative Credit Societies, as well as Messrs. Ambadi Sankara Menon and Marayil Krishna Menon, members of the Executive Committee of the Cochin Land Mortgage Bank, all of whom are conversant with this kind of work, are also of the same opinion.

In view of the above facts and circumstances some the members apprehended that the scheme might not be a success if reliance was placed solely on security without due regard to the repaying capacity of the borrower.

11. In support of the opposite view one of the main grounds urged is the absence of any reliable method for testing the repaying capacity of the borrower. The tests generally applied for this purpose are in their very nature likely to be one-sided and faulty. Considerations of the borrower's monthly salary if he is an employee, the capacity to earn a living by manual labour, the income from properties other than the mortgaged items are very often taken to be the criteria in determining this question. But practical experience would show that these tests are inefficient and that it is not seldom that actualities differ widely from expectations. A Government servant drawing a big salary may spend the whole of his pay and may have to borrow to meet his expenses. The rich man of today may be rendered penniless tomorrow by unexpected domestic calamities. The Government will be unnecessarily placing the applicant for loans at the mercy of the whims and fancies of the officers concerned if it were to embark upon an enquiry regarding the repaying capacity of the borrower.

12. Nor is it necessary to consider repaying capacity since only 60 per cent of the value of land is proposed to be given as loan and the yield of the mortgaged property would be more than sufficient to pay the instalment. To illustrate: According to our proposal a person who takes a loan of Rs. 1,000 has to furnish a security of land worth Rs. 1,666—10—4. If, the item mortgaged is a cocoanut plantation, taking the annual income of a tree to be 12 as. as estimated usually by the Land Mortgage Bank authorities in their valuation, the estate will have 112 trees yielding a total annual net income of Rs. 84 which works out at 5 per cent. Deducting the annual instalment of Rs. 65, there is still a balance of Rs. 19. The calculation of income set forth above is free from mistake. There is no possibility of the income being lower than stated above since according to the rules of valuation obtained in the Land Mortgage Bank at present if the annual yield per tree is smaller, then its capitalised value becomes smaller, and consequently the value of the land is also estimated lower with the result that only a proportionately smaller sum will be

advanced on its security. It has further to be remembered that we are valuing the property at a time when land value is at its lowest ebb. Economic depression has done its utmost havoc upon land that its value is beyond further possibilities of fall. Further, even if 75 per cent of the value of the land is advanced by way of loan repayable in 30 years, the annual instalment will be a little smaller than in the 20 years' scheme with 50 per cent in the Land Mortgage Bank. But we have recommended only 60 per cent of the value of the property to be advanced as loan leaving thereby a margin of 15 per cent which proportionately reduces the amount of annual instalment by Rs. 22-3-0 on a loan of Rs. 1,000. The reason for the difference between the 4 per cent income of the minority view and the 5 per cent income of the majority view is due to the difference in the valuation between the Land Mortgage Bank Rules and the ordinary purchases.

13. The question therefore is whether under such circumstances there is any possibility of land being locked up in the hands of Government, even if loans are advanced without considering the repaying capacity of the borrower. Evidently there is no room for such fears especially so when a long period of 30 years (since the bonds are of 30 years duration) is at our disposal within which alone the properties have to be disposed of and during which the yield can be attached and sold. Even assuming that the loan might be defaulted the Government will never be lacking in purchasers for the land so long as the annual income of the mortgaged item is sufficient to meet the annual instalment as in this case it exceeds by 2 per cent on a loan of Rs. 1,000. It is also to be remembered that the benefits of long-term payment would be available to purchaser in such a case.

14. It has to be made clear in this connection that neither the defaults nor the want of purchasers, if any, under the Special Loan Scheme will minimise the force of the above reasoning. The special loans were advanced on an entirely different method of valuation. Lands were valued according to the rules governing land acquisition. Annual yield of the land was not the criterion. Even wells and tanks which could not be expected to yield any income were valued and included in the total valuation of the land. Naturally the value of land went high and it is on such highly estimated value that 75 per cent was advanced. No wonder therefore that there are no purchasers, in some cases, for the land under such a scheme. The case for special loans, therefore, is more a contrast than an analogy and the recommendations of this Committee are an improvement on the special loan. It is also open to Government to attach and sell the properties whenever defaults are made.

15. Again the instances of the failure of the State Land Bank of Russia and the Central Banks of Berar do not in any way disprove the above position. Their failure was inevitable for reasons widely different in character. "Heavy financing before and during the boom period and more on the basis of assets than on the repaying capacity" have, it is said, caused the locking up of land in the hands of the Central Banks of Berar. While we have no date as to whether they have paid due consideration to the annual yield of the land in advancing loans, one thing is clear that the banks had advanced agriculturists too heavily during the boom period on the security of land at the high market rate then current. The unexpected abnormal fall in the value of land cannot but diminish the value of security and consequently look up the land in their hands. If this were a boom period our recommendation would have been different. Nor is it a matter for surprise that the Peasants' State Land Bank in Russia which was improvident enough to advance 80, 90 and even 100 per cent of the value of land had ultimately to rue for it and for fear of an insurrection of agriculturists against the Government (a condition actually foreign to Cochin State) had to abandon a substantial amount advanced by way of loans. Even assuming that the extract represents the actualities in view of the conflicting narratives of the several authors on matters relating to that country, it is clear that conditions are dissimilar to our recommendations. We have fixed the percentage of loan with due regard to the possibility of easy realisation either from the borrower himself or from the secured property.

16. It may be stated that the margin left after paying the Government dues is too small to help the agriculturist in his ordinary living. But a mathematical calculation of this nature is but an unimaginative way of determining the question whether the agriculturist would eat away the annual yield of the properties for his own purposes without paying Government dues or whether he would starve or resort to desperate means to satisfy his needs and pay the Government dues regularly. It is the degree of despair and struggle to save his property that determines the whole question. The members who are against a scrutiny as to the repaying capacity urged for the above reasons that it was needless to submit the applicant for loan to a profitless test of his repaying capacity and put a stumbling block in the way of his relief by insisting upon this condition.

We have set out the reasons on both sides at some length. After mature deliberation the majority of the members were of the opinion that the repaying capacity of the borrower need not be considered where the security offered is sufficient, and we recommend accordingly.

17. We think it is necessary to fix a limit to the total liability to be undertaken by Government. No statistics are available as to the total indebtedness of the agriculturists of the State. To collect information on the point would be a laborious task and we do not think it worthwhile embarking on such an enterprise for the purpose of the present enquiry. The survey reports of the late Mr. T. K. Sankara Menon, would show that the total debt of the 9 villages surveyed by him comes to Rs. 27,55,547. If a calculation is made on this basis, the total indebtedness for the whole State (273 villages) will be above 8 crores of rupees. Thiruvazhiyad village appears to be the least affected, among the villages surveyed, its total debt being only Rs. 1,12,293. Assuming that to be the average for all the villages, the total debt for the whole State will be over 3 crores. We think we will not be far from right if we take the total indebtedness for the whole State to be not less than 6 crores. But the pressing debts for which funds would have to be made available will be considerably less. The Chairman of the Debt Conciliation Board says in his reply that the applications received by the Board from the Southern District cover a debt of over 46 lakhs of rupees. Adding almost an equal amount for the Northern District also, the total debt of pressing nature may be taken to be somewhere about 90 lakhs. But it will be found on analysis that in many cases only a small portion of the amount applied for could be given by way of loan owing to the applicants inability to furnish security. In our view a sum of Rs. 50 lakhs would be sufficient to meet the present pressing demands. Government have guaranteed the debentures of the Land Mortgage Bank to the extent of 20 lakhs. Of this the Bank

has already disbursed loan to the extent of 13 lakhs. A sum of Rs. 7 lakhs will be available for disbursement under that head. If for the present, Government would allow a further sum of Rs. 25 lakhs, there will be 32 lakhs to be utilised for the issue of loans. It will take 2 or 3 years to disburse the whole of this 32 lakhs. The Government can, at the end of that period review the then position and undertake a further liability if found necessary. Government have already made financial commitments on a large scale for capital expenditure in connection with the Harbour, etc. It is probable that there may be other unexpected demands upon their resources owing to the outbreak of war. We have therefore to be cautious in throwing additional liabilities upon their shoulders. Our recommendation is that Government should for the present undertake a liability of Rs. 25 lakhs; but we would urge that the Government should be pleased to undertake a further liability if necessary when the said amount is exhausted.

18. How is Government to find money for financing the scheme? This question has become more complicated owing to the outbreak of war. Government apparently is not in a position to find money from its surpluses. The next best course would be to raise loans by debentures and pay the creditors in cash, but that course is now blocked because owing to war, the money market has become stringent and it is doubtful whether we can now get money on as easy terms as before. And without cheap money agriculturists cannot be helped. Therefore the only course that we can suggest is the issue of credit bonds by Government. The terms of the bonds should be such as to make them attractive. We suggest that the bonds may carry interest at 4 per cent payable half-yearly. The interest should be free from the Cochin Income-tax. The bonds should be made negotiable. Since the period of the loan to the agriculturists is fixed at 30 years, the period of credit bonds may also be 30 years. The bond-holders will not be entitled to demand back the amount before the expiry of that period. But Government should have the power to redeem them on notice after 10 years, the bonds to be redeemed being chosen by lot. The credit of the Cochin Government stands very high and the whole of that credit will be at the back of these bonds. When all the above concessions are taken into account, the interest on the bonds may come up to nearly 4½ per cent. Those who are in need of funds can transfer the bonds and get their money. We should think the creditors would be only glad to accept these bonds. All the same we think they should be compelled to accept the bonds. On this point the opinion of those who have sent in replies is divided, but in our opinion unless compulsion is used the scheme is not likely to be a success. We advocate compulsion not because the bonds are not sufficiently attractive, but because people in the villages generally have an innate dislike for bonds. They always prefer ready money. Another great advantage which creditors can secure by accepting these bonds is that they can get back their money without the trouble and expenses of a suit and execution proceedings. It is true that after the declaration of war the prices of Government securities have fallen slightly, but that is only a temporary phase, which may not last long. Even assuming that the creditors would be put to some inconvenience or hardship by accepting these bonds, we hope they would gladly make that small sacrifice for the rehabilitation of the economic condition of the agricultural population on whose prosperity mainly depends the prosperity of the State as a whole.

19. We may add that the above proposal has the general approval of such an eminent economist as Dr. P. J. Thomas, University Professor of Economics, Madras. In the course of his reply he states.—

"If (as you say) the total amount of debenture bonds will be kept within reasonable limits, and if borrowers are chosen carefully, the system proposed can be safely managed, and the possible burden on the tax-payer may not be great. But the real difficulty is in regard to the acceptability of bonds by the creditors. A market in bonds must be developed, and perhaps this may be possible at least in regard to Cochin Government's bonds. As the risks are not serious and as the advantages of the new arrangement are real, the system proposed is, in my opinion, well worth trying."

Considering the fact that Cochin Government's bonds were always oversubscribed and are sold at a premium, we have no doubt that the investing public would gladly go in for these bonds and that a market will be developed in course of time.

20. As to the machinery for working the scheme, we have no doubt that the Land Mortgage Bank will be the best machinery for the purpose. That is also the view of almost all those who have sent in replies. The Bank may be made to do the work in either of two ways:—

- (1) The changes proposed above in regard to the rate of interest, etc., may be incorporated in the bye-laws of the Bank by necessary amendments. The amount covered by the credit bonds will be treated as a loan by Government to the Bank. The Bank can then issue loans out of this amount as a part of its normal work as it is now doing with regard to the money raised by debentures. The Bank will bear any loss that may arise by reason of bad debts, etc. Those who want loans will have to become members of the Bank and abide by its rules. In this case, no fresh rules will be necessary, as rules have already been framed for the working of the bank; or
- (2) The Bank may be made to work the scheme as the agent of Government. A separate department will have to be created under the Bank for this purpose. Government will be primarily responsible for the amount and any loss that may arise by reason of bad debts, etc., will be debited to it. The applicants for loans need not in this case become members of the Bank. New rules will have to be framed on the line of the proposals made above. Coercive steps such as distraint, sale, etc., in case of default may be taken under the provisions of the Act governing the Bank. By a Royal Proclamation or legislative enactment the Bank will have to be empowered to work the scheme under the provisions of the Act and bye-laws governing it.

21. We prefer the latter course. In either case Government will have to give a subsidy to the Bank to make up the deficiency in the expenses connected with the working of the scheme. The Bank is now managing with a margin of 2 per cent interest on the loans advanced, that is, the difference between the borrowing and lending rates. That difference will be reduced to 1 per cent under the new scheme, which will not be sufficient for the management of the Bank as it has to make provision for reserve fund,

bad debt fund, etc. The subsidy may be gradually reduced in amount and ultimately stopped when the amount advanced as loan becomes sufficiently large. The Directors of the Bank may be consulted before passing orders on the mode of working the scheme through the Bank.

22. Those who have already taken loans from the Land Mortgage Bank and discharged their debts need not be allowed to convert their loans under the new scheme. The advantages they get by such conversion is mainly in the matter of interest to the extent of 1 per cent. But it will create confusion. We will be able to help a larger number of agriculturists with the funds available if such conversion is not allowed. Strictly speaking such persons are not entitled to the help of the new scheme, because, that scheme is intended to benefit only persons who will be benefited by the Act. But debts due to Land Mortgage Bank do not fall within the purview of the Act and persons who owe such debts do not get any benefit thereunder. Of course if they have any additional debts to repay to private parties, they may be allowed to take loans under the new scheme to the extent of those debts.

23. To reduce the delay in the disposal of loan applications by the Bank, an amendment to section 27 (2) of the Act (XXV of 1111) governing the Bank would seem to be necessary. Now encumbrance certificate is taken in every case for 23 years and the parties are required to produce all the documents referred to therein for verification of prior encumbrances existing upon the property proposed to be mortgaged. For hunting up all these documents a lot of time is wasted. And since charges subsisting for more than 12 years are very rare, most of the documents of more than 12 years' standing, ultimately prove to be useless. To avoid this difficulty, the examination of encumbrance certificates and the production of documents may be limited to 12 years. As to charges subsisting for more than 12 years, a notice may be published in the Government Gazette as is now done in the case of attachments and oral mortgages, and if nobody comes forward with any claims within a fixed period, the Bank may proceed as if no such claims existed. Section 27 (2) of Act XXV of 1111 may be amended accordingly.

24. As to implementing the scheme, it seems necessary to set up tribunals to fix the amount due from the debtor to the creditor as scaled down under the provisions of the Agriculturists' Relief Act. The Land Mortgage Bank is now paying the loan amount not directly to the debtor but to his creditors after getting the necessary release deeds from them. This safeguard is necessary for two reasons.—

- (i) to ensure that the loan was utilised for the purpose for which it was taken; and
- (ii) to get the property mortgaged freed from all encumbrances.

This course will have to be followed under the new scheme also. But to pay the amount directly to the creditor, the amount due to him must be ascertained beforehand. On this point the parties may not agree. The dispute may be as to whether the debtor is an agriculturist and how much his debts as scaled down would amount to. Unless these points are adjudicated upon and the amount settled, the work of the authority issuing the loan may be held up. Since the scaling down of debts is provided by the Act, the work of the Debt Conciliation Board is likely to be considerably lightened. We think that the Conciliation Board now existing in the Southern District may be entrusted with this work also and a similar tribunal consisting of 3 members may be set up for the purpose in the Northern District also. Their jurisdiction need extend only to the deciding of questions arising out of the provisions of the Act. Both the debtor and the creditor may apply. When the principal amount of the debt is not fully admitted, the parties may be referred to a regular suit. The application for scaling down should be made before or at the time when an application is presented to the Bank for a loan, so that the enquiry by the Tribunal as well as the valuation of property by the Bank may proceed simultaneously to avoid unnecessary delay. If ultimately it is found by the tribunal that the debtor is not an agriculturist entitled to the benefit of the Act, he can get a loan from the Bank at least to the extent of Rs. 5,000. When an application is presented either to the tribunal or the Bank, the sale of the applicant's property if any pending in any Civil Court may be stayed till the applications are disposed of.

25. A simple procedure should be laid down for trial by these tribunals, and their decisions should be final. Parties should have no right of appeal or revision, but the tribunals should have power to review their own decisions. Section 31 of the Act empowers Government to make rules for carrying into effect the purpose of the Act. We think these tribunals can be set up under the rule-making powers conferred upon Government by the above section. It appears that no such tribunals exist in the Madras Presidency; that is because, the Madras Government have not made any provision for helping the debtors with loans for the discharge of the scaled down debts. But it would appear that they have recently made rules under section 28 of the Madras Agriculturists Relief Act (corresponding to our section 31) enabling both the debtor and the creditor to apply to a court to get an adjudication as to the amount due under the provisions of the Act. We would have gladly recommended the entrustment of this work to the ordinary Civil Courts, but hard-worked as these Courts are, we fear that may cause delay thereby holding up the issue of loans. As to framing of rules, we have already stated that if the Land Mortgage Bank is to be utilised for working the scheme, much will not have to be done in that direction.

26. We may summarise below our findings on the several points referred to us.—

Points i, ii and iii in the reference.—The Government should issue long-term loans to agricultural debtors to pay off their creditors. The loans should bear interest at 5 per cent and be repayable in 30 equated annual instalments. The scheme should be worked through the Land Mortgage Bank. The security should consist of land. The maximum amount of loan to be advanced to each borrower should be Rs. 10,000, but in exceptional cases the issuing authority will have the discretion to raise the maximum to Rs. 15,000. A debtor should be entitled to 60 per cent of the value of land where the loan does not exceed Rs. 5,000; to 50 per cent where the loan exceeds 5,000 but does not exceed Rs. 10,000 and to 40 per cent where the loan exceeds Rs. 10,000.

Point iv.—It is necessary to issue credit bonds. The bonds should bear 4 per cent interest payable half-yearly. The period of the bonds should be 30 years. The bonds should be negotiable and the interest thereon should be free from Cochin Income-tax. It is desirable to compel creditors to accept the bond; otherwise the scheme is likely to be a failure.

Point v.—Two tribunals should be set up one at Ernakulam and the other at Trichur for scaling down and ascertaining the debts of agriculturists who will be benefited by the Act.

1. Rao Sahib C. V. Antony, Chairman (Signed.)

Members

2. K. Achyuta Menon, Diwan Peishkar (Signed)
3. Rama Varmha Tampuran, Comptroller of Finance and Accounts (Signed)
4. Dr. A. R. Menon, Minister for Rural Development (Signed)
5. T. K. Nayar, M. L. C. (Signed)
6. K. Ayyappan, M. L. C. (Signed)
7. M. K. Devassy, M. L. C. (Signed)

Office of the Chairman,
Agriculturists Relief
Enquiry Committee,
Trichur,
6th November 1939.
20th Thulam 1115.

C. V. ANTONY

Chairman

(True copy)

"We, the members of the Agriculturists Relief Enquiry Committee, wish to place on record our high appreciation of the invaluable services rendered to us by the chairman in all our deliberations and for the uniform kindness and courtesy which he has extended to us. We might add that the report, embodying our conclusions, is wholly drafted by him".

We request that the above may be published along with report.

1. K. Achyuta Menon, Diwan Peishkar (signed)
2. Rama Varmha Tampuran, Comptroller of Finance and Accounts (signed)
3. Dr. A. R. Menon, Minister for Rural Development (signed)
4. T. K. Nayar, M. L. C., (signed)
5. K. Ayyappan, M. L. C., (signed)
6. M. K. Devassy, M. L. C., (signed)

Office of the Chairman, Agriculturists
Relief Enquiry Committee,
Trichur,
6th November 1939.
20th Thulam 1115.

(True copy)

FINANCE DEPARTMENT

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF COCHIN

Finance Department

Industrial Schools—Shifting of

No. 18.—

Read (1) Letter E. 1690/15, dated 12th January 1940 from the Director of Industries and Commerce.

(2) Letter L1. 4707/15, dated 22nd January 1940 from the Comptroller of Finance and Accounts.

And (3) Sarvadhikariakar's communication C. 1479/15, dated 7th February 1940.

Order R. Dis. 10651/15, dated 9th February 1940

As there is no scope at Kumbalanghy for the development of the Industries generally taught in G. I. Schools, viz., weaving, carpentry, etc., the G. I. School at Kumbalanghy, will be shifted to Varandapilly with effect from the beginning of the educational year 1115—1116. Simultaneously with this shifting, the coir school at Narakkal, will be transferred to Kumbalanghy and housed in the present G. I. School building.

xx

xx

xx

xx

xx

(By order of the Government of Cochin)

P. J. GEORGE

Joint Secretary to Government

14th February 1940 (2nd Kumbham 1115)

No. 19.—It is hereby notified under section 1 (2) of the Government Trading Taxation Act, V of 1115, that the said Act will come into force with effect from 1st Chingam 1116 (16th August 1940).

(By order of the Government of Cochin)

K. P. KANNAN NAYAR

Secretary to Government

PUBLIC & POLITICAL DEPARTMENT—(cont.)

15th February 1940 (3rd Kumbham 1115)

No. 132.—The following Notification of the Government of India in the External Affairs Department, No. 1-W, dated New Delhi, the 31st January 1940, is republished for general information.

It is notified for general information that British and Indian interests in German-occupied Poland and in Bohemia and Moravia will, for the time being, be looked after by the authorities of the United States of America.

(Sd.) O. K. CAROE

Secretary to the Government of India

(By order of the Government of Cochin)

K. P. KANNAN NAYAR

Secretary to Government

15th February 1940 (3rd Kumbham 1115)

No. 133.—In exercise of the powers conferred by sub-rule (1) of rule 114 of the Defence of India Rules as made applicable to Cochin by His Highness the Maharaja's Proclamation, III of 1115, Government are pleased to order that all property, movable and immovable, belonging to, or held by, or managed on behalf of, the enemy firms specified in the Schedule hereto annexed or any of their branches, shall vest in the Custodian of Enemy Property for Cochin State.

Schedule

1. Mr. A. Keifer, representative A. Neuhanser of Germany, Sorab Mansions, Murzban Road, Bombay.
2. Messrs. Graphica, 7 Royd Street, Calcutta.
3. The United Black Forest Industry, Outram Road, Bombay.
4. Mr. W. E. Kollenberg, Ahmedabad House, Wittett Road, Ballard Estate, Bombay.
5. Mr. Fritz Lindenbaum, Carmichael Road, Cumballa Hill, Bombay.
6. The Indo-Persian Trading Company, Dundas Street, Camp, Karachi.
7. The Hansa Holder Engineering and Company, Little Villa, Victoria Road, Karachi.
8. Mr. Werner Schneider, Talaq Mohal, Cawnpore.
9. Rotas Industries Bakelite Factory, Sion Bridge, Bombay.
10. Messrs. D. Hamann and Company, Victoria Building, Parsi Bazar Street, Fort, Bombay.

16th February 1940 (4th Kumbham 1115)

No. 134.—Consequent on M. R. Ry. K. P. Kannan Nayar Avl., B. A., B. L., Secretary to Government, entering on privilege leave preparatory to retirement with effect from the 15th of June 1940, the following arrangements are ordered.—

1. M. R. Ry. K. Achyuta Menon Avl., B. A., B. L., Diwan Peishkar, to officiate as Secretary to Government.
2. M. R. Ry. A. Madhava Prabhu Avl., B. A., B. L., District and Sessions Judge of Anjikaimal, to officiate as Diwan Peishkar.
3. M. R. Ry. C. A. Kunjunni Raja Avl., B. A., B. L., Advocate-General, to officiate as District and Sessions Judge, vice Mr. Madhava Prabhu.

(By order of the Government of Cochin)

K. P. KANNAN NAYAR

Secretary to Government

16th February 1940 (4th Kumbham 1115)

No. 135.—In pursuance of section 11 of the Government of Cochin Act, XX of 1113, His Highness the Maharaja is pleased to appoint M. R. Ry. Manikkath Sivarama Menon Avl., B. A. & B. L., Advocate, Ernakulam, to officiate as Advocate-General, vice M. R. Ry. C. A. Kunjunni Raja Avl., B. A., & B. L., appointed to officiate as District and Sessions Judge of Anjikaimal with effect from 14th March 1940.

SHANMUKHAM CHETTY

Diwan of Cochin

In exercise of the powers conferred on them by Section 32 of the Travancore Agriculturists' Relief Regulation, III of 1112, the following Rules are passed by the Government of His Highness the Maharaja under date the 5th June 1937.

Huzur Cutcherry,
Trivandrum, 5th June 1937.

(By order)

N. KUNJAN PILLAI,
Chief Secretary to Government.

RULES.

1. (1) These rules may be called the Travancore Debt Conciliation Rules, 1112.
(2) They shall come into force on the first of Mithunom 1112.
2. In these rules unless there be anything repugnant to the subject or context:--
(a) the word "Regulation" shall mean the Travancore Agriculturists' Relief Regulation (Regulation III of 1112);
(b) the expression "Munsiff's Court of the place" shall mean the Munsiff's Court having jurisdiction over the place where the headquarters of the Debt Conciliation Board is situated; and
(c) all other words and expressions defined in the Regulation shall have the meanings assigned to them in the Regulation.
3. Government shall establish the Boards and fix the territorial and pecuniary jurisdiction of each Board by notification in the Government Gazette.
4. Government shall appoint one of the Conciliation Officers as the Chief Conciliation Officer who shall have administrative control over all the other Conciliation officers.
5. Every application under Section 4 of the Regulation shall be stamped with a court fee stamp of the value of half a rupee.
6. If the Conciliation Officer is a party to, or personally interested in, any application before the Board, he shall report such fact to the Chief Conciliation Officer, and the Chief Conciliation Officer may transfer the application to another Board for disposal. If the Chief Conciliation Officer is a party to, or personally interested in, any application before his Board, he shall report to Government, and Government may transfer the application to another Board for disposal.
7. (1) The headquarters of every Board shall be fixed by Government by notification in the Government Gazette; provided, however, that Government may by a similar notification change the headquarters so fixed, to any other place within the Board's area of jurisdiction.
(2) The Board shall ordinarily sit for the transaction of its business at its headquarters, but may sit at such other places as it may fix. The Board shall hold its sittings on all days except Sunday, local holidays and general holidays for the Revenue Department. But nothing in this rule shall operate to invalidate proceedings taken by a Board on a sanctioned holiday. The Chief Conciliation Board may fix the time of its sittings. The hours of sittings of the other Boards shall be from 11 A. M. to 5 P. M. In fixing the place for sittings the Boards shall have regard to the convenience of the parties.
8. (1) The Board may either of its own motion or on the application of any of the parties, for reasons to be recorded in writing, adjourn the hearing of any case from time to time. Every such adjournment shall be to a date certain and shall be announced to the parties or their agents, if present, in open session. The dates of the hearings shall be fixed so as, if possible, to suit the convenience of the parties.
(2) There shall be put up with each case an order sheet similar to that kept in criminal cases. In this shall be entered the dates and places of the various hearings, a brief account of what took place at each hearing, the date to which the hearing is adjourned and the reasons for the adjournment.
(3) Where the adjournment made by an Officer other than the Chief Conciliation Officer a copy of the entries in the order sheet shall within three days of the hearing be sent up to the Chief Conciliation Officer.
9. Every application under the Regulation shall be presented at the office of the Board, during office hours by the applicant in person or by an agent authorised by him in writing, to the Conciliation Officer, or to the person generally authorised by the Conciliation Officer to receive such application on his behalf.
10. The Conciliation Officer or such other person, as the case may be, shall examine whether the application is in proper form and, if it is not in proper form, return it at once to the applicant for being presented in proper form. If the application is in proper form it shall be accepted for being proceeded with in accordance with the law.
11. A further and better statement of the nature of the claim or defence, or further and better particulars of any matters stated in any application, may be admitted by the Board, in its discretion, for reasons to be recorded in writing.
12. The notices under Section 7 (2) and (3) of the Regulation shall be served on debtors and creditors by registered Achnal or Post and, in exceptional cases, also in the manner prescribed by the Civil Procedure Code of 1100 M. E.

13. The notice under Section 8 of the Regulation shall be served on every known creditor in the manner of serving notices prescribed in the Code of Civil Procedure, 1100. The Board shall also publish a general notice calling upon every creditor of the debtor to submit statements as required by Section 8 of the Regulation. This notice shall be published by affixture at the office of the Board and also by publication in the Government Gazette or any newspaper determined by the Board; provided that in any case the Board may order that affixture at the office of the Board is alone sufficient.

14. For every notice to be sent by Post or Anchal and for every notice to be published in the Government Gazette or newspapers the applicant shall deposit the necessary cost in cash. For every notice to be served through the establishment of the Board the applicant shall deposit the cost in Court fee stamps in accordance with the scales prevailing from time to time in the Munsiff's court of the place.

15. (1) If applications for the conciliation of the debts of the same debtor are made to more than one Board, the Chief Conciliation Officer shall call for the applications from the different Boards and decide which Board may most conveniently deal with all such applications, and transfer for disposal by such Board (under Section 4 (3) of the Regulation) all the applications presented to the other Boards.

(2) Pending such decision by the Chief Conciliation Officer, further proceedings in respect of the applications by all the Boards shall be stayed if so ordered by the Chief Conciliation Officer.

16. The proceedings of the Board shall be recorded in English or in such vernacular language as the Board may determine in each case.

17. The summonses issued under the Regulation shall, as nearly as may be, be in the form of summonses issued under the Code of Civil Procedure, 1100.

18. The service of summons under the Regulation on any person may be effected in the manner of serving summons issued under the Code of Civil Procedure, 1100, and by sending to him a copy of the summons by registered Anchal or Post, prepaid for acknowledgment.

19. All processes issued by the Board, other than those ordered to be sent by Anchal or Post, shall be served through the agency of the establishment attached to the Board.

20. When the person whose evidence is required is unable, from sickness or infirmity, to attend before the Board issuing the summons, or is a person whom by reason of rank or sex it may not be proper to summon, the Board issuing the summons may, of its own motion or on the application of the person whose evidence is required, dispense with his appearance, and order him to be examined by a person deputed by the Board for the purpose.

21. Where the person whose attendance is required is a public officer, or is the servant of a local authority, the officer issuing the summons may, if it appears that the summons may be most conveniently so served, send it by registered Anchal prepaid for acknowledgment for service on the person whose attendance is required to the head of the Office or Department in which he is employed, together with a copy to be retained by that person.

22. (1) A party who desires the attendance of a witness, either to give evidence or to produce a document, shall deposit with the Board along with his application for issue of process to his witnesses:

(a) in court fees stamps, process fees in accordance with the scales prescribed for the Munsiff's court of the place;

(b) in cash, the allowances for travelling to, and attending at, the Board in accordance with the scales prevailing in the Munsiff's court of the place.

(2) All applications for issue of processes to witnesses shall be made at least 10 days before the date of hearing, failing which such applications shall be dismissed.

(3) When the Board causes the attendance of a witness of its own motion and not at the instance of a party, the Board shall pass such orders as it thinks fit as to the payment of expenses to the witness and as to the party or parties by whom such expenses are to be paid, but summons to the witness shall not issue until the payment has been made.

23. In all enquiries before the Board it shall not be obligatory to take down the evidence of the witnesses in writing at length, but the Conciliation Officer, as the examination of each witness proceeds, shall make a memorandum of the substance of what he deposes and such memorandum shall be written and signed by the Officer and shall form part of the record.

24. The stamp duty on an agreement drawn up under Section 16 of the Regulation and costs of registering it shall be paid by the Parties in such proportions as they agree.

25. The certificates under Section 17 of the Regulation shall be signed by the Conciliation Officer and shall be dated and sealed with the seal of the Board.

26. In addition to the fee prescribed by Rule 5 above, the party who applies for conciliation shall pay a court fee of Rs. 10 on his application in all cases where conciliation has been effected under Section 16 of the Regulation, and a Court fee of Rs. 2 in all cases where conciliation is not effected but a certificate is granted under Section 17 of the Regulation. In default of payment by him, these fees may be paid by any other party to the conciliation proceedings. The party other than the applicant who pays the same will be entitled to realise the same from the applicant through the agency of the Conciliation Board establishment.

27. Every application for review of an order passed on any conciliation application shall be charged with a court fee of Rs. 5.

28. The prescribed period under Section 20 of the Regulation for the disposal of any application for conciliation is three months from the date it is first filed in any conciliation office. In calculating the period of three months above mentioned, the time spent in proceedings under rules 6 and 12 shall be excluded.

29. In every case in which a debtor or a creditor is a minor or a person of unsound mind, the procedure laid down in Order XXXII of the First Schedule to the Code of Civil Procedure, 1100, shall be applied.

30. Every application for copies of records shall be presented to the Conciliation Officer or to the officer generally authorised by him to receive such applications. The rules regarding grant of certified copies by the Munsiff's court of the place shall be followed, as far as may be, in granting copies of the records maintained by the Board.

31. (1) The following registers and books shall be maintained by every Board :—

- (a) Register of applications for conciliation.
- (b) Register of Conciliation agreements.
- (c) Register of certificates.
- (d) (i) Process Register.
- (ii) Nominal Register of Process Servers.
- (e) Register of applications for copies.
- (f) Receipt book (in duplicate foils).
- (g) Register of contingent expenditure.
- (h) Cash book.
- (i) Chalan Register.
- (j) Register of miscellaneous applications.
- (k) Register of receipts and disbursements of moneys.
- (l) Acquittance roll register.
- (m) Register of undisbursed salaries.
- (n) Stock book of articles of stationery
- (o) Stock book of printed forms.
- (p) Register of furniture.
- (q) Leave Register.
- (r) Register of letters received.
- (s) Register of letters despatched.
- (t) Attendance register.
- (u) Stock register of Anchal Stamps.
- (v) Register of letters despatched by Anchal.
- (w) Register of letters despatched by Post.
- (x) Stamp register.
- (y) Register of pending and disposed of cases.
- (z) Witness Register.
- (aa) Daily register of copying work.
- (ab) Day book of receipts and expenditure of impressed sheets received in the

copying department and such other registers and books as may be from time to time prescribed by Government or the Chief Conciliation Officer.

These registers and books shall be maintained in the forms approved by the Government or the Chief Conciliation Officer.

(2) After the close of each calendar year, the registers and books specified in sub-rule (1), after the entries relating to pending cases have been transcribed into new registers and books, and the records relating to completed proceedings of cases, shall be transferred to the Munsiff's court of the place.

(3) The registers, books and records aforesaid shall be preserved by the Munsiff's court of the place for the period specified below against each :—

- (a) Registers and books 6 years.
- (b) Records relating to cases
 - (i) dismissed 2 years.
 - (ii) in which certificates have been granted under Section 17 (1)—20 years and
 - (iii) which have resulted in an agreement—6 years.

32. Every Board shall submit to the Chief Conciliation Officer a monthly progress return in such form as may be prescribed by the Chief Conciliation Officer with Government sanction.

33. (1) Every Board shall, not later than the 30th Thulam of every year, submit to the Chief Conciliation Officer, an annual report on the working of the Regulation during the previous Malabar year. Such report shall indicate:

- (i) progress of work and results achieved ;
- (ii) difficulties experienced in working the Regulation ;
- (iii) amendments, if any, that appear to be necessary to the Regulation or the Rules; and
- (iv) such statistics or other information as may be prescribed, from time to time, by Government.

(2) The Chief Conciliation Officer shall, not later than the 30th Vrischigom of every year, submit to Government a consolidated annual report of the working of the various Boards during the previous Malabar year, which shall contain also such further particulars as may be ordered by Government.

84. The Conciliation Officer shall be entitled to draw for any journey travelling allowance and halting allowance at rates to which he would be entitled by virtue of his official position.

85. The Chief Conciliation Officer shall be the controlling officer empowered to countersign the travelling allowance bills of the Conciliation officers and the Chief Secretary to Government shall be the controlling officer as regards the Chief Conciliation Officer.

86. Government may provide for each Board such ministerial and menial staff as it may from time to time require, and may regulate the conditions of their employment and fix the salaries and allowances payable to them.

87. In all administrative matters, the Chief Conciliation Officer shall be directly subordinate to Government and the other conciliation officers to the Chief Conciliation Officer.

88. The Chief Conciliation Officer shall inspect the Board's records at least once a year, but he may inspect them more frequently if he sees fit to do so. He shall submit a report to Government on the results of such inspection, once a year.

89. Each Board shall have and use a seal approved by Government for the Board.

40. The Chief Conciliation Officer shall be responsible for the co-ordination of the work of the various Boards.

41. Besides the fee chargeable on applications for the execution of decrees, a court fee of one per cent *ad valorem* shall be payable in respect of every application for the execution of a decree declared as such under Section 16 of the Regulation, the application being for this purpose treated as a plaint in a suit praying for the reliefs claimed in the application and the applicant as the plaintiff; provided however that, if the court fee has been paid once in respect of any relief, no court fee shall again be payable in respect of any application for the same relief.

Explanation. The court fees paid may be treated as costs of the application.

FORM No. 1.

Section 6, Sub Section (1) of Regulation III of 1112.

To

The Debt Conciliation Board at.....
Conciliation Application No. of 111 .

Under Section 6 of the Travancore Agriculturists' Relief Regulation III of 1112, I
..... son of..... residing in.....
..... house..... Kara or Muri..... Pakuthy
..... Taluk, beg to apply for settlement of the debts between my creditors and myself.

The amount and particulars of all claims against me are as follows:

Name, residence and full address of the creditors.	Amount of debt owed.	Particulars of debts, including date of commencement, rate of interest, whether secured and if so, how etc.
1	2	3
Total		

2. I declare that I have no other properties except those scheduled below :—
A. IMMOVABLE PROPERTY.

Specification of property.	Boundaries.	S. No. & extent.	Muri, Yala, or padom.	Pakuthy.	Value.			Details of mortgage, charges, lien etc.	Remarks.
					Rs.	chs.	o.		
1	2	3	4	5	6			7	8
1. Gardens 2. Paddy lands 3. Houses 4. Other immovable property, if any									

B. MOVABLE PROPERTY.

Full description.	Value.			Details of lien or charge.	Remarks.
	Rs.	Chs.	Ca.		
1	2			3	4
A. Claims due ... B. Cash ... C. Other movable property.					

3. I pray for an amicable settlement of my debts.

4. (Other particulars, if any, prescribed, to be stated here.)

Verified that the contents of paragraphs personal knowledge of, and those in paragraphs believed to be true by the undersigned.

Declared at _____ on this the _____

Signature of the applicant.
of the application are true upon the
upon information received and

day of _____ 111 .

Signature of the applicant.

FORM No. 2.

Section 6 Sub Section (2) of Regulation III of 1112.

To

The Debt Conciliation Board at _____

Conciliation Application No. _____ of 111 .

Under Section 6 (2) of the Travancore Agriculturists' Relief Regulation, 1

house
pakuthy,
settlement of my claims against
residing at
property at _____

son of
residing in
kara or muri,
Taluk, beg to apply for
or holding immovable

2. The amounts and particulars of my claims against the debtor are as follows.

Name, residence and full address of the debtor.	Amount of debt claimed.	Particulars of claim including date of commencement, rate of interest, whether secured and if so, how etc.,
1	2	3
Total ...		

3. The said debtor is unable to pay his debts; or I want an amicable settlement of my debts due from him.

Verified that the contents of paragraphs the personal knowledge of and those in paragraphs and believed to be true by the undersigned.
 Declared at _____ on this the _____

Signature of the applicant.
 of the application are true upon
 upon information received
 day of _____ 111 .
 Signature of the applicant.

FORM No. 3.

Form of notice to creditors and debtors under section 7
 clauses (2) and (3) of Regulation III of 1112.
 Conciliation Application No. _____ of 111 .

Notice is hereby given to _____ A B of

that an application has been made for settlement of the debt (or debts) of C D of

and will be examined by the Board, together with any objections that may be preferred by any person interested, at 11 A. M. at the Office of the Board at _____ on the _____ day of _____ 111 .

Dated the _____ day of _____ 111 .

Seal of the Board.

Signature of the Conciliation Officer
 or of the Head clerk.

Debt Conciliation Board,
 Place _____

FORM No. 4.

Form of notice under Section 8 of the Regulation III of 1112.
 Conciliation Application No. _____ of 111 .

To
 XY of (all creditors of CD of
 Whereas

(debtor/creditor
 has submitted an application under section 6 of the aforesaid Regulation for the settlement of the debts of CD of _____ and whereas the Board is of the opinion that it is desirable to attempt to effect a settlement between the said debtor and his creditors, you, as one of the creditors (all the creditors) to whom the said debtor is indebted, are hereby required to submit to the Board a statement in writing on or before the _____ day of _____ 111 at the Board's office at _____ of all debts owed to you (them) by the said debtor. The Board will scrutinise this statement at 11 A. M. on the _____ day of _____ 111 when you should appear before the Board.

2. You (all) the creditors are also required to furnish along with such statement, full particulars of all such debts and shall, at the same time, Produce all documents, including entries in books of account on which you (they) rely to support your (their) claims, together with a true copy of every such document.

3. The settlement in this case will take place at _____ at 11 A. M. on the day of 111, when you shou'd appear before the Board
Dated the _____ day of .. 111 .

(Seal of the Board).

Signature of the Conciliation Officer
or of the Head clerk.

Debt conciliation Board,
Place.....

FORM No. 5.

Form of Notice under Section 16 (2) of Regulation III or 1112.

Conciliation Application No. _____ of 111 .

No

XY of

Notice is hereby given that Conciliation in the form given at foot has been agreed to between debtor AB of _____

and creditors

CD of, EF of, GH of

You, as one of the creditors of the aforesaid debtor, are hereby called upon to appear and to state before the office of the Board at _____ on or before the _____ day of 111, whether you agree to the conciliation and are prepared to sign the conciliation agreement.

Your attention is invited to section 16, sub section (2), of Regulation III of 1112, to the effect that if you do not, on or before the date above specified, appear before the Board and express your disagreement to the conciliation, you will be deemed to have agreed to it and to have signed the conciliation agreement.

Dated this the _____ day of 111 .

Seal of the Board.

Signature of the Conciliation Officer.

Debt Conciliation Board,
Place.....

(Here enter the details of the conciliation agreement)

X:9026:(2435)

GA

My dear Editor,

37

+ m. v.

14/3/24.

I was very interested in the article in your issue of 1st February, 1934, entitled "Liquidation of Industrial Debts". I am writing you this private letter on the subject as the librarian of your society might like to have a reference to similar legislation elsewhere.

I should introduce myself first as a person who has visited your Head Quarters where I spent a Sunday in 1923 with Mr. H. ^C~~A~~ Zacharias and spoke to your members on "Malaya". I was then going home on leave from Madras where I had been Emigration Commissioner for Malaya.

While in Madras I lived in the dormitory area outside the town and saw how greatly indebtedness burdened the clerical and professional classes. On my return to Malaya I continued my observation of the problem and always tried to help the Government Servants Co-operative Thrift and Loan Society at the place where I was stationed. In 1931 I was appointed Chairman of a Committee in the Straits Settlements to recommend what action should be taken about Moneylender's Legislation. We drafted a bill, but the Committee agreed with me that in the case of the clerical population, which is the class most affected in Malaya, direct action by employers was likely to prove the real remedy. Accordingly we recommended that Government, the Railway, Municipalities, Harbour Boards and all other employers should obtain from their employees a statement (a) shewing true financial position, (b) promising to take such steps as might be ordered to clear it, (c) setting forth that they realised they were being given a last chance and that they

knew they would be dismissed ^{for} from future indebtedness. In bad cases the order to be given would usually be to file a petition on bankruptcy.

We did not know that this suggestion had been made before. The situation as we saw it was that the Community to which the clerks belonged had come to look on chronic indebtedness not as a disgrace but as a normal thing. The picture I always draw is of a young clerk, getting his first job, standing on the edge of the precipice of debt, over which his friends, relatives, social and religious customs are all trying to push him while there is no force acting in the opposite direction. We tried to think of some outside counteracting force which would act not only on the clerk but on his family but could think of no other force than the one now suggested.

We were pleased that our report got a very good press. Government was slow however to adopt the policy but, surprising as it may seem, the policy was soon taken up by several business firms. Government has since adopted it formally. I have not got a spare copy of the report and I doubt if one is available.

Before coming here to act as Controller of Labour, I was Official Assignee, Singapore. There I discovered a section (No. 105) in the Straits Settlements Bankruptcy Ordinance, taken from a corresponding section in England. It introduces what is called an Administration Order. As the result of my experience in the Bankruptcy Office I drafted for Government a revised Section 105 which has now had its first reading in the Straits Settlements ^{Legislative Council.} From your paper I now find that my "original idea" of improving our existing section had already been thought of by the Whittley Commission I may say that this will now be used as an argument for our bill.

- 3 -

I send you for what it is worth a copy of the Bill and Objects and Reasons.

If you refer to the Straits Settlements Bill please do not mention having heard from me. I believe in the old Civil Service tradition of official anonymity. Just say that your attention has been drawn to the Straits Settlements Bill which though worked out without knowledge of the Labour Commission's recommendation attacks the indebtedness problem on the same lines.

If any of you are in touch with Zacharias please send him my salaams.

If you or the member who has made this subject his own has time to write I should like to hear if he accepts the conclusions of the Whitley Report. That report, I think, goes to the root of the problem when it says that credit is the workers' curse.

Yours sincerely,



(C. WILSON, M. C. S.)

No 18 of 1932.

Straits Settlements.

Paper to be laid before the Legislative Council
by Command of His Excellency the Governor.

REPORT

OF THE

COMMITTEE APPOINTED TO CONSIDER THE QUESTION OF MONEYLENDERS IN THE STRAITS SETTLEMENTS

To

THE HONOURABLE THE COLONIAL SECRETARY OF THE
STRAITS SETTLEMENTS, SINGAPORE.

X63.435.N3E.

92

SIR,

The Committee, appointed to consider the question of Moneylenders in the Straits Settlements, have the honour to report as follows:—

(2) **Terms of Reference.**—We were appointed to report on the desirability of legislation to control moneylenders in the Colony, and to advise on what lines such legislation, if any, should be framed.

(3) **Scope.**—We have looked at this problem only as it affects the urban population as we understood from the reports of the debates in Legislative Council that this is the aspect which is causing anxiety at present. The lending of money to peasants on the security of their lands presents quite a different problem from that of loans to the clerical and artisan classes, who have no property which can be given as security.

(4) **Procedure.**—We have not considered it necessary to call any witnesses on the question of the necessity of legislation concerning moneylenders but we had at our disposal the Secretariat papers in which this subject has been discussed at length twice during the past ten years. In 1923 the question was referred by the then Attorney-General to the judges of the Supreme Court whose opinion was that no case had been made out for legislation. In 1929, when the subject was again raised, the Under Secretary (Mr. HEMMANT) took the opinion of District Judges. Five different officers wrote reports and in some cases gave figures. They were unanimously of opinion that action was necessary. We consider that the District Judges were, by the conditions of their work and previous experience, in a better position to give an opinion on the necessity for legislative action than the judges of the Supreme Court who were not brought into the same contact with the persons affected. One of our members was able to furnish us with figures relating to the Provident fund of the firm which he manages. These figures shew the seriousness of the situation. It was the experience of another member who is a large employer which led to the appointment of this committee. Inche MAHOMED UNUS' own experience of the problem from other points of view leaves him in no doubt as to the necessity of action. Our Chairman, in addition to what he has seen of the problem as head of fair-sized offices, has been President during the past year of the Singapore Government Servants' Thrift and Loan Society and by attending the committee meetings of that Society has gained valuable knowledge both of the extent of the problem and of the reaction to it not only of the victims but also of the whole community affected. We also obtained, from the Assistant District Judge, figures which he took on the bench of the place of employment of the men who appeared before him either as defendants in moneylenders' cases or in judgment debtor summonses. These figures showed that the indebtedness was not confined to the employees of Government or of quasi Government bodies.

(5) We studied the legislation dealing with moneylenders and indebtedness in England, the Punjab, Ceylon, the Federated Malay States, and Hongkong and in the case of some of these countries we had before us papers on the introduction or on the results of this legislation.

(6) In addition to the circulation of papers and correspondence the committee held five meetings. At the first of these meetings we came to certain conclusions. Mr. P. M. ROBINSON went on leave before our next meeting but left on record his concurrence in these conclusions. Our Chairman met, as a result of our first meeting, a number of representative Nadukottai Chetties and explained to them how we were disposed to recommend that Government should act and as the result the Singapore members of the committee met a number of Chetties and discussed details with them. Mr. A. P. ROBINSON went on leave before our last meeting but saw the draft of this report and agreed with most of it.

(7) **Conclusions.**—We have no doubt that the problem of indebtedness of the clerical and artisan classes is one of great and growing seriousness. We think that a man may be said to be in debt to a serious extent if his indebtedness amounts to more than three months' salary. We believe that at the lowest estimate 75% of the clerks and similar employees in Government service are in debt to this extent. This means that the community affected has become so accustomed to indebtedness that it does not look upon indebtedness as abnormal or disgraceful. There is thus no public opinion against borrowing however reckless, and this, we consider, is the most important factor in the moneylending problem. The occasion of a youth obtaining his first employment becomes, in very many cases, also the opportunity for his family to obtain further credit based on his money earning capacity. The youth signs a promissory note either as principal or as surety and for the rest of his life resigns himself to further borrowing, renewing of promissory notes and keeping down his debts sufficiently to enable him to borrow more. The result is a reduced standard of living, a resultant lowering of efficiency and most deplorable of all, an inevitably low standard of honesty, because a man in debt with no hope of recovery is liable to be tempted to make money either by misappropriation or by receiving bribes for breaches of duty. Many such cases have been reported in the press in the last few years, but for every case which reaches the Courts many others occur. It must be remembered also that amongst all classes of Asiatics the family includes a much larger number of relatives than does a Western family. They are more closely bound together than are the members of a Western family. The unit for many religious observances and social customs is this large family. The result is that the forces acting on a man compelling him to borrow and compelling him to shield other people are more numerous than those to which a European is subject. There are signs too that with the increase in the number of women amongst the immigrants to this country, the dowry system is extending. We are given to understand that this is more noticeable in the North than in Singapore but it is certainly increasing in Singapore. This added to the other calls which religious and social duties impose on the wage earning male members of the family in its widest ramifications will make the necessity to have recourse to moneylenders greater unless a much stronger force acts in the other direction. For all these reasons your committee feels it of the first importance to emphasise that something more than legislation to regulate moneylending is called for.

(8) Before pointing out the force which we should like to see called into existence we wish to emphasise at this point that, though we propose legislation and think that it is necessary, we consider the public should be educated to realise that this legislation is only one step towards improvement in the general social condition of the urban population.

(9) What we suggest is that Government, as the largest employer of members of the class most affected, should give a lead to other employers. Already there is a General Order in the Colony which reads as follows:—

“G. O. 24.—(1) Any officer against whom a receiving or an administration order has been made may be interdicted from duty and salary, and “will not be reinstated unless it shall appear that his difficulties have been “occasioned by unavoidable misfortune, and not by extravagance or “culpable improvidence.

“(2) Any officer who shall not, immediately on proceedings being “taken against him with a view to bankruptcy, inform the Head of his “Department of the fact, shall be dismissed from the service.

“(3) It is the duty of the Colonial Secretary, Resident Councillors “or Resident to report to the Governor any such fact regarding a Head “of Department when it comes to their notice.

“(4) It is the duty of the Official Assignee or Assistant Official “Assignee, the Registrars of the Supreme Court, and the District Judges “to report to the Colonial Secretary, Resident Councillor or Resident “every case of an officer against whom any proceedings are taken in “Bankruptcy, or who becomes a judgment debtor; but no judgment “debtor need be reported unless seven days have elapsed after judgment “and the amount of such judgment still remains unpaid.”

The Federated Malay States reproduces the Home instructions:—

“G. O. 23.—(1) The Secretary of State has laid down that the under-mentioned rules contained in the Treasury Minute enclosed in Earl Granville’s Circular Despatch of the 9th January, 1869, shall be applicable to all cases of pecuniary embarrassment on the part of public servants.

The Secretary of State further points out that the signing of a promissory note by officers who are specially protected by “The Public Servants (Liabilities) Enactment”, will generally be a more blameworthy act than the signing of such documents by other officers who do not enjoy the protection of that Enactment.

RULES BY THE LORDS COMMISSIONERS OF HER MAJESTY’S TREASURY.

1. That it is to be understood that serious pecuniary embarrassment, from whatever cause, will be regarded as a circumstance which necessarily has the effect of impairing the efficiency of a public servant, and of rendering him less valuable than he would otherwise be.

2. That such embarrassment, if occasioned by imprudence or other reprehensible cause, will be held to be an offence, as affecting the respectability of the Service, and the trustworthiness of the individual; any person who has so conducted himself will be considered to have forfeited that honourable position in the Service which is necessary to give him a claim to promotion or increase of salary from length of service; and these benefits will not be permitted to accrue to him again until he shall have relieved himself from the discredit of such a position. Aggravated cases of this description will be noticed whenever they become known; and such measures will be taken, either in the manner above adverted to, or in a manner more summary and severe, as the circumstances may appear to deserve.

3. That the mere fact, under whatever plea, of becoming a party to accommodation bills, whether for his own purposes, or for another person, and whether resulting in pecuniary embarrassment or not, will subject a Civil Servant to the consequences described in the preceding paragraph.

G. O. 23.—(2) Any officer against whom a receiving or an administration order has been made may be interdicted from duty and salary, and will not be reinstated unless it shall appear that his difficulties have been occasioned by unavoidable misfortune, and not by extravagance or culpable improvidence.

G. O. 23.—(3) Any officer who shall not, immediately on proceedings being taken against him with a view to bankruptcy, inform the head of his department of the fact, shall be dismissed from the service."

(10) We recommend that Government and bodies like the Railway, Harbour Boards and Municipalities give notice to all future entrants to the public service that a man who signs a promissory note either as principal or surety, or a man who is made a bankrupt or a man against whom a judgment debtor order has been made will be at once dismissed. Further, we think that in the case of those persons already in the public service, a last chance should be given. Anyone whose financial position is insecure should be allowed to declare it. If his indebtedness is greater than six months' salary, he should be allowed to go into bankruptcy without any disciplinary action being taken by his employer though he would not have cause for complaint if this prevented him being chosen for special positions for which only persons of proved strength of character should be considered. In the case of those whose indebtedness is less than six months' salary they should be instructed to liquidate their indebtedness through a Thrift and Loan Society. We understand that the number of persons affected is so great that they might not be able to obtain the necessary sureties. We also understand that sureties might be obtainable if they were relieved from having to stand the loss in case of death or retirement through illness. If that is found to be the case we recommend that Government should guarantee the societies against loss in these two cases only.

(12) This recommendation appears drastic, but is not really so. Anyone who has investigated the borrowing and repaying history of a clerk who has signed promissory notes to the lower class chetties, to the shopkeeper who takes promissory notes for his debts or to the Sikh jaga, knows that, once he finds that his employer is not going to dismiss him, bankruptcy is a blessed relief. Our Chairman has got behind the scenes in the case of some recent bankruptcies of Government clerks and has given us some idea of how much better off a man is as a bankrupt than he was when tortured by creditors of the usual type.

(13) We believe that if Government will give a lead other employers will follow suit.

(14) We are convinced if this last chance is given and the dismissal rule rigorously enforced there will be a complete change in the outlook of the whole community affected. At present the unfortunate clerk is quite unable to resist the pressure of his relatives, particularly of his elder female relatives who are the last to give up the expensive social customs and habits which we are convinced are mainly responsible for the extent of the borrowing at present existing. In future he will have a conclusive and irresistible answer to them.

(15) **Legislation Proposed.**—We attach a draft bill based mainly on the English Acts of 1900 and 1927. We had some doubts as to whether it would be better to follow the complex English Act or the simpler looking Ceylon Ordinance but came to the conclusion that the advantage of having the guidance of the numerous decisions in the English Acts overcomes the seeming simplicity of the Ceylon Ordinance.

Sections (1) & (2).—The first two sections are introductory and call for no comment except to say that this bill will do away with the necessity of separate legislation for Labuan.

Section 3. Definitions.—This section follows the English Acts of 1900 & 1927.

Section 4. Licences.—In England a moneylender on receiving a certificate from a Petty Sessions Court obtains his licence from the Commissioners of Excise and Customs. We propose that the Registrar of Moneylenders (who is also Registrar of Companies) should licence directly. We have made arrangements for one licence to cover all branches in the Colony of one chetty firm provided the agents lend in the firm name. This will abolish the practice of some agents of lending privately in their own name at exorbitant rates to risky borrowers, a not uncommon practice at present.

A right of appeal to the Colonial Secretary is given from the decision of the Registrar to refuse a licence.

Section 5. How Licences are to be Issued.—This section *mutatis mutandis* is from the English Act.

Section 6. Suspension of Licences.—This follows the English Act.

Section 7. Names to be stated in all Documents and Advertisements.—This follows the English Act.

Section 8. Restriction on Moneylending Advertisements.—We do not think that at present there is much need of this section but it may be useful. It is the same as in the English Act except sub-section 4 which comes from Ceylon and prohibits loans to the wives and children of householders.

Section 9. Form of Contracts.—This follows England. On further investigation it may be found possible to redraft this section and section 10 which cover the same ground because

Section 10, Particulars to be set forth in Negotiable Instruments, is a Ceylon section which applies to the type of instrument most common here.

Sub-section 2 of section 10 is new. The idea of insisting on having all figures in English numerals either alone or in addition to the same figures in other characters comes from the Punjab. With a mixed population like that in the Colony we think that this provision will be a real safeguard. Most borrowers can read English numerals and if the form of the document is standardised will understand the principal facts from the figures alone.

Section 11. Prohibition of Compound Interest.—This reproduces part of the English section.

Section 12. Accounts to be kept in Permanent Books and in a Prescribed manner.—This is a Ceylon section. There is a similar provision in the Punjab. The Chetties already keep good books but will need to change the form of their accounts. The form proposed is quite simple and similar to that successfully used in all sorts of co-operative societies in Malaya.

Section 13. Obligation to show State of Account.—This section which is in all Moneylenders Acts follows the English section.

Section 14.—Money-lenders Loans in Bankruptcy.—This is similar to England.

Section 15. Accounts to be produced when suing in Court. Re-opening of Transactions.—This is section 1 of the English Act of 1900 with words added for clearness to the first sub-section which reproduce the actual English practice.

Section 16. Interest above 3% per mensem to be presumed excessive. This section is taken mainly from section 10 of the English Act of 1927. We think that above 3% the onus should lie on the lender to prove that the interest is not excessive.

Section 17. Prohibition of charge for expenses.—This very necessary provision is in the English Act of 1927.

Section 18. Limitation of time for proceedings.—It is recognised in all countries that moneylenders should not allow their loans to remain outstanding till the interest has become so great that the borrower can never hope to get out of debt. In this section we reproduce both the English section which prescribes a limit of time within which the lender must sue and also the Ceylon Ordinance which says that at no time shall a lender be allowed to recover more interest than the principal then outstanding.

Section 19. Pawnbrokers.—We do not know if this section is needed here but as it has been found necessary in England we insert it for discussion.

Sections 20 & 21.—These are English sections dealing with the rights and duties of Assignees.

Sections 22 & 23. Blank and Fictitious Promissory Notes.—These sections are taken from the Ceylon Ordinance. Further consideration may shew that the English sections already included cover this ground sufficiently. The taking of such notes is very common at present.

Section 24. Speaking Falsely to Induce Borrowing.—This is an English section.

Schedule. Forms of Promises.—These are the forms referred to in section 10. The Ceylon Ordinance gives only one form. There is much need of a form to cover repayments by instalments. We recommend that when the Act is printed Government should print and supply all licensed moneylenders with a simple set of tables shewing the equal monthly instalments of principal and interest to be paid on loans of \$100 at $\frac{1}{2}$, $\frac{3}{4}$, 1, $1\frac{1}{4}$ 3% per mensem repayable in 10, 12, 15, 18, 21, and 24 monthly instalments. Another table shewing the number of instalments in round sums with one final payment of the balance could be easily worked out and might be useful.

(16) We wish to emphasise that the Bill we have drafted is not considered by us as ready for being passed as an Ordinance. We have deliberately erred on the side of fullness and think that the drafting officers of Government will be able to eliminate some sections or sub-sections. An English decision newly reported shows that one sub-section which we inserted is probably unnecessary now.

We have the honour to be,

Sir,

Your obedient servants,

(Sd.) MOHAMED UNUS BIN ABDULLAH

(Sd.) H. WYLLY

(Sd.) C. WILSON, M.C.S.,

Chairman.

X63 : (2735)

67

A BILL
intituled

AN Ordinance to make provision for the regulation of
Money Lending.

It is hereby enacted by the Governor of the Straits Settlements with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the Moneylenders Ordinance, 193

Short title.

2. Except as hereinafter provided, this Ordinance shall come into force on Chapter VII Ordinance 127 (Labuan) when shall be repealed.

Date of commencement and repeal.

Provided that, subject to the provisions of any regulations or rules under this Ordinance, licence may be granted to moneylenders at any time after ; but no such licence shall come into force until the commencement of this Ordinance.

Nothing in the foregoing proviso shall limit or otherwise affect the provisions of section 6 of Ordinance No. 131 (Interpretation).

3. In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpretation. (E. M. A. 1927 sec. 15).

“Authorised name” and “authorised address” mean respectively the name under which and the address at which a moneylender is authorised by a certificate granted under this Ordinance to carry on business as moneylender;

“Authorised name” and “authorised address”.

<p>“Business name”</p>	<p>“Business name” means the name or style under which any business is carried on, whether in partnership or otherwise;</p>
<p>“Company”</p>	<p>“Company” means any body corporate being a money-lender;</p>
<p>“Firm”</p>	<p>“Firm” means an unincorporate body of two or more individuals, or one or more individuals and one or more corporations, or two or more corporations, who have entered into partnership with one another with a view to carrying on business for profit;</p>
<p>“Interest”</p>	<p>“Interest” does not include any sum lawfully charged in accordance with the provisions of this Ordinance by a moneylender for or on account of costs, charges or expenses, but save as aforesaid, includes any amount, by whatsoever name called, in excess of the principal, paid or payable to a moneylender in consideration of or otherwise in respect of a loan;</p>
<p>“Money-lender” (E.M.A. 1900, sec. 6).</p>	<p>“Moneylender” shall include every person whose business is that of moneylending, or who advertises or announces himself or holds himself out in any way as carrying on that business;</p>
<p>Exemptions.</p>	<p>But shall not include—</p>
<p>Pawn-brokers.</p>	<p>(a) any pawnbroker in respect of business carried on by him in accordance with the provisions of Ordinance No. 61 (Pawnbrokers); or</p>
<p>Co-operative societies.</p>	<p>(b) any society registered under Ordinance No. 204 (Co-operative Societies); or</p>
<p>Statutory lending Corporations.</p>	<p>(c) any body corporate, incorporated or empowered by a special Act of Parliament, or by an Ordinance to lend money in accordance with such special Act or Ordinance; or</p>
<p><i>Bonâ fidâ</i> banking, insurance and business companies.</p>	<p>(d) any person <i>bonâ fidâ</i> carrying on the business of banking or insurance, or <i>bonâ fidâ</i> carrying on any business not having for its primary object the lending of money, in the course of which and for the purposes whereof he lends money; or</p>
<p>“Principal” (E.M.A. 1927, sec. 15).</p>	<p>“Principal” means in relation to a loan the amount actually lent to the borrower.</p>

4.—(1) Every moneylender, whether carrying on business alone or as a partner in a firm, shall take out annually in respect of every address at which he carries on his business as such, a moneylender's licence, which shall expire on the thirtieth day of June in every year, and, subject as hereinafter provided, there shall be charged on every moneylender's licence duty of _____ dollars, or if the licence be taken out less than twelve months before the expiration thereof of _____ dollars a month or part of a month:

Licences to be taken out by money-lenders. (E.M.A. 1927, sec. 1).

Provided that—

(a) where moneylender's licences are taken out by two or more moneylenders in respect of any address or addresses at which they carry on their business as partners in a firm, the Registrar of Moneylenders shall remit, or if the duty has been paid, repay to the firm a sum equal to the aggregate of the duties charged on such number of the licences taken out as exceeds the number of addresses in respect of which they are taken out; and

Remission of duty.

(b) in the case of a firm carrying on business through agents who lend money only in name of the firm, the partners of the firm shall before the first of July each year furnish the Registrar with a statement of the capital of the firm and the names and shares of the partners and their addresses, and also the name of the agent who shall be responsible to the Registrar of Moneylenders under this Ordinance. This agent shall annually, before the 1st of July and within 14 days as changes occur, furnish the Registrar with a list of agents and their places of business and shall take out a licence for all the agencies of the firm for which he shall pay a duty equal to the individual licence duty multiplied by the number of agencies.

Firms lending through agents.

(2) Subject to the provisions of this Ordinance, moneylender's excise licences shall be in such form as the Colonial Secretary may direct, and shall be granted, on payment of the appropriate duty, by the Registrar of Moneylenders or any officer authorised by him to grant them, and regulations made by the Colonial Secretary may make provision as to the procedure to be followed in making application for moneylender's excise licences:

Form of, and regulations relating to, money-lenders' licences.

Provided that a moneylender's licence shall be taken out by a moneylender in his true name, and shall be void if it be taken out in any other name, but every moneylender's licence shall also show the moneylender's authorised name and authorised address.

License to be taken out in true name.

- (3) If any person—
- (a) takes out a moneylender's excise licence in any other name other than his true name; or
- (b) carries on business as a moneylender without having in force a proper moneylender's excise licence authorising him so to do, or, being licensed as a moneylender, carries on business as such in any name other than his authorised name, or at any other place than his authorised address or addresses; or
- (c) enters into any agreement in the course of his business as a moneylender with respect to the advance or repayment of money, or takes any security for money, in the course of his business as a moneylender, otherwise than in his authorised name,
- he shall be guilty of a contravention of the provisions of this Ordinance and shall for each offence be liable on summary conviction to a fine of \$500 or six months imprisonment of either description:
- Provided that, on a second or subsequent conviction of any person (other than a company) for an offence under this sub-section, the Court may, in lieu of or in addition to ordering the offender to pay the penalty aforesaid, order him to be imprisoned for a term not exceeding twelve months, and an offender being a company shall on a second or subsequent conviction be liable to a penalty of two thousand dollars.
- 5.—(1) Licences under this section shall be granted by the Registrar of Moneylenders or officers authorised by him.
- (2) Every licence granted to a moneylender shall show his true name and the name under which, and the address at which, he is authorised by the licence to carry on business as such, and a licence shall not authorise a moneylender to carry on business at more than one address, or under more than one name, or under any name which includes the word "bank", or otherwise implies that he carries on banking business, and no licence shall authorise a moneylender to carry on business under any name except—
- (a) his true name; or
- (b) the name of a firm in which he is a partner; or
- (c) the name of a firm licensed by the Registrar of Moneylenders of which he is an authorised agent under section 4 (1) proviso (b).

License in true name.

Carry on business.

Trading in unauthorised name.

Penalty.

(cf. E.M.A. 1927, sec. 2). Licenses to be granted by the Registrar of Moneylenders.

Particulars to be shown on licenses.

Prohibits moneylenders acting as bankers.

(3) A licence shall come into force on the date specified therein, and shall expire on the next following 30th day of June. Duration of license.

(4) The Colonial Secretary shall make rules with respect to the procedure to be followed in making application for licences (including the notices to be given of intention to make such an application), and licences shall be in such form as may be prescribed by rules so made. Rules of procedure in applying for licence

(5) A licence shall not be refused except on some one or more of the following grounds:— Grounds of refusing license.

(a) that satisfactory evidence has not been produced of the good character of the applicant, and in the case of a company of the persons responsible for the management thereof; Character.

(b) that satisfactory evidence has been produced that the applicant, or any person responsible or proposed to be responsible for the management of his business as a moneylender, is not a fit and proper person to hold a licence; Not fit and proper person.

(c) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a moneylender, is by order of a Court disqualified for holding a licence; Disqualified by order of Court.

(d) that the applicant has not complied with the provisions of any rules made under this section with respect to applications for licences; Non-compliance with rule.

(e) that he has lent to minors. Lending to minors. (local).

(6) Any person aggrieved by the refusal of a licensing officer to grant a licence may appeal through the Registrar of Moneylenders to the Colonial Secretary. Appeal to Colonial Secretary.

6.—(1) Where any person, being the holder of a licence, is convicted of any offence under this Ordinance the Court— (c.f. E.M.A. 1927, sec. 3).

(a) may order that any licences held by that person, and in the case of a partner in a firm by any other partner in the firm, shall either be suspended for such time as the Court thinks fit, or shall be forfeited, and may also, if the Court thinks fit, declare any such person, or any person responsible for the management of the moneylending business carried on by the person convicted, to be disqualified for obtaining a licence for such time as the Court thinks fit; and Suspension and forfeiture of money-lender's licence.

Particulars
of conviction
to be
endorsed
on licence.

(b) shall cause particulars of the conviction and of any order made by the Court under this sub-section to be endorsed on every licence held by the person convicted or by any other person affected by the order, and shall cause copies of those particulars to be sent to the authority by whom any licence so endorsed was granted, and to the Registrar of Moneylenders:

Appeal.

Provided that, where by order of a Court a licence held by any person is suspended or forfeited, or any person is disqualified for obtaining a licence, he may, whether or not he is the person convicted, appeal against the order in the same manner as any person convicted may appeal against his conviction, and the Court may, if it thinks fit, pending the appeal, defer the operation of the order.

Production
of licences.

(2) Any licence required by a Court for endorsement in accordance with the foregoing provisions of this section shall be produced, in such manner and within such time as may be directed by the Court, by the person by whom it is held, and any person who, without reasonable cause, makes default in producing any licence so required shall, in respect of each offence, be liable on summary conviction to a penalty not exceeding twenty-five dollars for each day during which the default continues.

Names to
be stated
on docu-
ments
issued by
money-
lenders.

7.—(1) A moneylender shall not, for the purpose of his business as such, issue or publish, or cause to be issued or published, any advertisement, circular, business letter or other similar document which does not show in such manner as to be not less conspicuous than any other name, the authorised name of the moneylender, and any moneylender who acts in contravention of this sub-section shall be liable on summary conviction to a fine not exceeding two hundred dollars in respect of each offence.

Penalty.

No circular
implying
a banking
business to
be issued.

(2) If a moneylender, for the purpose of his business as such, issues or publishes, or causes to be issued or published, any advertisement, circular or document of any kind whatsoever containing expressions which might reasonably be held to imply that he carries on banking business, he shall on summary conviction be liable to a fine not exceeding one thousand dollars, and on a second or subsequent conviction, in lieu of or in addition to such a fine as aforesaid, to imprisonment for a term not exceeding three months, or, in the case of a second or subsequent conviction of an offender being a company, to a fine not exceeding three thousand dollars.

8.—(1) No person shall knowingly send or deliver or cause to be sent or delivered to any person except in response to his written request any circular or other document advertising the name address or telephone number of a moneylender, or containing an invitation—

(E.M.A. 1927, Sec. 5). Restriction on money lender's advertisements.

- (a) to borrow money from a moneylender;
- (b) to enter into any transaction involving the borrowing of money from a moneylender;
- (c) to apply to any place with a view to obtaining information or advice as to borrowing any money from a moneylender.

(2) Subject as hereinafter provided, no person shall publish or cause to be published in any newspaper or other printed paper issued periodically for public circulation, or by means of any poster or placard, an advertisement advertising any such particulars, or containing any such invitation, as aforesaid:

News-paper advertisements.

Provided that an advertisement in conformity with the requirements of this Ordinance relating to the use of names on moneylenders' documents may be published by or on behalf of a moneylender in any newspaper or in any such paper as aforesaid or by means of a poster or placard exhibited at any authorised address of the moneylender, if it contains no addition to the particulars necessary to comply with the said requirements, except any of the following particulars, that is to say any authorised address at which he carries on business as moneylender and the telegraphic address and telephone number thereof, any address at which he formerly carried on business, a statement that he lends money with or without security, and of the highest and lowest sums that he is prepared to lend, and a statement of the date on which the business carried on by him was first established.

(3) No moneylender or any person on his behalf shall employ any agent or canvasser for the purpose of inviting any person to borrow money or to enter into any transaction involving the borrowing of money from a moneylender, and no person shall act as such agent or canvasser, or demand or receive directly or indirectly any sum or other valuable consideration by way of commission or otherwise for introducing or undertaking to introduce to a moneylender any person desiring to borrow money.

Prohibition of agents and canvassers inviting borrowers.

(4) Any person carrying on the business of moneylending, who, by visiting the residence of any person, induces the wife or child of such person to contract a loan without his written consent, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding \$100 or to imprisonment of either description for a period not exceeding six months, or to both such fine and imprisonment.

Loans to women and children of householders by money-lenders. (Ceylon Ord. 2/18, sec. 16).

Rate of interest to be shown on documents published by money-lenders.

(5) Where any document issued or published by or on behalf of a moneylender purports to indicate the terms of interest upon which he is willing to make loans or any particular loan, the document shall either express the interest proposed to be charged in terms of a rate per cent per annum or per mensem.

Penalty.

(6) Any person acting in contravention of any of the provisions of this section shall be guilty of an offence against this Ordinance and shall in respect of each offence be liable, on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding five hundred dollars, or to both such imprisonment and fine.

Civil effects of contravention.

(7) Where it is shown that a moneylending transaction was brought about by a contravention of any of the provisions of this section, the transaction shall, notwithstanding that the moneylender was duly licensed under this Ordinance, be illegal, unless the moneylender proves that the contravention occurred without his consent or connivance.

Form of money-lenders contracts.

9.—(1) No contract for the repayment by a borrower of money lent to him or to any agent on his behalf by a moneylender after the commencement of this Ordinance or for the payment by him of interest on money so lent and no security given by the borrower or by any such agent as aforesaid in respect of any such contract shall be enforceable, unless a note or memorandum in writing of the contract be made and signed personally by the borrower, and unless a copy thereof be delivered or sent to the borrower within seven days of the making of the contract; and no such contract or security shall be enforceable if it is proved that the note or memorandum aforesaid was not signed by the borrower before the money was lent or before the security was given as the case may be.

Note or memorandum containing the terms of the contract.

(2) The note or memorandum aforesaid shall contain all the terms of the contract and in particular shall show the date on which the loan is made, the amount of the principal of the loan, and the rate of interest charged on the loan expressed either in terms of a rate per cent per annum or a rate per cent per month.

(Query, *Lyle v. Chappell* may make this unnecessary).

Renewals of promissory notes. (Ceylon Ord. 2/18, sec. 10 (9)).

(3) The provisions of this section shall apply to renewals of any loan and in all such cases the amount stated as the capital sum actually borrowed shall be the amount of the original loan actually outstanding.

10.—(1) In every promissory note given as security for the loan of money after the commencement of this Ordinance there shall be separately and distinctly set forth upon the document—

- (a) the capital sum actually borrowed;
- (b) the amount of any sum deducted or paid at or about the time of the loan as interest, premium or charge paid in advance; and
- (c) the rate of interest per centum per annum or per mensem payable in respect of such loan.

Particulars to be set forth in negotiable instruments. (Ceylon Ord. 2/18, sec. 10).

(2) All dates or numbers on the document shall be written in English numerals even though they are also written in any other way.

Numbers to be written in English. (New).

(3) Any promissory note not complying with the provisions of this section shall not be enforceable:

Other pronotes not enforceable.

Provided that in any case in which the Court shall be satisfied that the default was due to inadvertance and not to any intention to evade the provisions of this section, it may give relief against the effect of this sub-section on such terms as it deems just.

(4) The setting forth of the particulars required by sub-section (1) shall not affect the negotiability of any promissory note.

Negotiability.

(5) Any promissory note setting forth the said particulars substantially in the form given in Schedule A to this Ordinance shall be deemed to be in compliance with this section.

Schedule A.

(6) The provisions of this section shall apply to renewals of any loan, and in all such cases the amount stated as the capital sum actually borrowed shall be the amount of the original loan.

Renewals.

11. Any contract made after the commencement of this Ordinance for the loan of money by a moneylender shall be illegal in so far as it provides directly or indirectly for the payment of compound interest or for the rate or amount of interest being increased by reason of any default in the payment of sums due under the contract.

Prohibition of compound interest. (E.M.A. 1927, sec. 7).

12.—(1) A person who carries on the business of moneylender shall keep or cause to be kept a regular account of each loan, clearly stating in plain words, and in English numerals as well as in the numerals of the script otherwise used, the items and transactions incidental to the account, and entered in a book paged and bound in such a manner as not to facilitate the elimination of pages or the interpolation or substitution of new pages.

Accounts to be kept in permanent books. (cf. Ceylon Ord. 2/18, sec. 8 (1)).

In a prescribed form.

(2) The Colonial Secretary may prescribe the form in which the accounts shall be kept and the particulars to be recorded.

Consequences of not keeping accounts in prescribed manner.

(3) If any person, subject to the obligations of this section, fails to comply with any of the requirements thereof, he shall not be entitled to enforce any claim in respect of any transaction in relation to which default shall have been made.

Obligation to supply information as to state of loan and copies of documents relating thereto.

13.—(1) In respect of every contract for the repayment of money lent by a moneylender, whether made before or after the commencement of this Ordinance, the moneylender shall, on any reasonable demand in writing being made by the borrower at any time during the continuance of the contract and on tender by the borrower of the sum of one dollar for expenses, supply to the borrower, or, if the borrower so requires, to any person specified in that behalf in the demand, a statement signed by the moneylender or his agent showing—

(E.M.A. 1927, sec. 8).

- (a) the date on which the loan was made, the amount of the principal of the loan and the rate per cent per annum of interest charged; and
- (b) the amount of any payment already received by the moneylender in respect of the loan and the date on which it was made; and
- (c) the amount of every sum due to the moneylender, but unpaid, and the date upon which it became due, and the amount of interest accrued due and unpaid in respect of every such sum; and
- (d) the amount of every sum not yet due which remains outstanding, and the date upon which it will become due.

Copy of document for borrower.

(2) A moneylender shall, on any reasonable demand in writing by the borrower, and on tender of a reasonable sum for expenses; supply a copy of any document relating to a loan made by him or any security therefor, to the borrower, or if the borrower so requires, to any person specified in that behalf in the demand.

Civil effect of non-compliance.

(3) If a moneylender to whom a demand has been made under this section fails without reasonable excuse to comply therewith within one month after the demand has been made, he shall not, so long as the default continues, be entitled to sue for or recover any sum due under the contract on account either of principal or interest, and interest shall not be chargeable in respect of the period of the default, and if such default is made or continued after proceedings have ceased to lie in respect of the loan, the moneylender shall be liable on summary conviction to a fine not exceeding twenty-five dollars for every day on which the default continues.

14.—(1) Where a debt due to a moneylender in respect of a loan made by him after the commencement of this Ordinance includes interest, that interest shall for the purposes of the provisions of Ordinance No. 44 (Bankruptcy) relating to the presentation of a bankruptcy petition, voting at meetings, compositions and schemes of arrangement, and dividend, be calculated at a rate not exceeding eight per cent per annum, but nothing in the foregoing provision shall prejudice the right of the creditor to receive out of the estate, after all the debts proved in the estate have been paid in full, any higher rate of interest to which he may be entitled.

Provisions as to bankruptcy proceedings for money-lenders' loans. (E.M.A. 1927, sec. 9).

The provisions of this sub-section shall, in relation to such a debt as aforesaid, have effect in substitution for the provisions of sub-section (8) of section 43 of Ordinance No. 44 (Bankruptcy).

(2) No proof of a debt due to a moneylender in respect of a loan made by him shall be admitted for any of the purposes of Ordinance No. 44 (Bankruptcy), unless the affidavit verifying the debt is accompanied by a statement showing in detail—

Statement must accompany affidavit verifying debt.

- (a) the amount of the sums actually lent to the debtor and the dates on which they were lent, and the amount of every payment already received by the moneylender in respect of the loan and the date on which every such payment was made; and
- (b) the amount of the balance which remains unpaid distinguishing the amount of the principal from the amount of interest included therein, the appropriation between principal and interest being made in accordance with the provisions of this Ordinance where the interest is not expressed by the contract for the loan in terms of a rate; and
- (c) where the amount of interest included in the unpaid balance represents a rate per cent per annum exceeding eight per cent, the amount of interest which would be so included if it were calculated at the rate of eight per cent per annum.

(3) General rules may be made under section 120 of Ordinance No. 44 (Bankruptcy) for the purpose of carrying into effect the objects of this section.

Accounts under sec. 82 to be produced when suing in Court. (cf. E.A. 1900, sec. 1).

15.—(1) Where proceedings are taken in any Court by a moneylender for the recovery of any money lent after the commencement of this Ordinance, or the enforcement of any agreement or security made or taken after the commencement of this Ordinance, in respect of money lent either before or after the commencement of this Ordinance, he shall produce the copy of his account as prescribed in section 13.

(N.B.—The last words of this sub-section though not in the English Act are in fact the English practice, see *In Re Judgment Summons*, 1929, B. & C. R. p. 64).

Re-opening of transactions of money-lender.

(2) Where there is evidence which satisfies the Court that the interest charged in respect of the sum actually lent is excessive and that the transaction is harsh and unconscionable, or is otherwise such that a Court of Equity would give relief, the Court may re-open the transaction, and take an account between the moneylender and the person sued, and may, notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, re-open any account already taken between them, and relieve the person sued from payment of any sum in excess of the sum adjudged by the Court to be fairly due in respect of such principal, interest and charges, as the Court, having regard to the risk and all the circumstances, may adjudge to be reasonable; and if any such excess has been paid, or allowed in account, by the debtor, may order the creditor to re-pay it; and may set aside, either wholly or in part, or revise, or alter, any security given or agreement made in respect of money lent by the moneylender, and if the moneylender has parted with the security may order him to indemnify the borrower or other person sued.

Proceedings by borrower against money-lender.

(3) Any Court in which proceedings might be taken for the recovery of money lent by a moneylender shall have and may, at the instance of the borrower or surety or other person liable, or of the assignee in bankruptcy, exercise the like powers as may be exercised under this section, where proceedings are taken for the recovery of money lent, and the Court shall have power, notwithstanding any provision or agreement to the contrary, to entertain any application under this Ordinance by the borrower or surety, or other person liable, notwithstanding that the time for repayment of the loan, or any instalment thereof, may not have arrived.

Bankruptcy.

(4) On any application relating to the admission or amount of a proof by a moneylender in any bankruptcy proceedings, the Court may exercise the like powers as may be exercised under this section when proceedings are taken for the recovery of money.

Application to all money-lending.

(5) The foregoing provisions of this section shall apply to any transaction, whatever its form may be, that is substantially one of moneylending by a moneylender.

(6) Nothing in the foregoing provisions of this section shall affect the rights of any *bonâ fidé* assignee or holder for value without notice. *Bonâ fidé assignee.*

(7) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any Court. *Existing powers of any Court.*

16.—(1) Where, in any proceedings in respect of any money lent by a moneylender after the commencement of this Ordinance or in respect of any agreement or security made or taken after the commencement of this Ordinance in respect of money lent either before or after the commencement of this Ordinance, it is found that the interest charged exceeds the rate of three per cent per mensem or thirty-six per cent per annum, the Court shall, unless the contrary is proved, presume for the purposes of section 15 that the interest charged is excessive and that the transaction is harsh and unconscionable, but this provision shall be without prejudice to the powers of the Court under that section where the Court is satisfied that the interest charged, although not exceeding three per cent per mensem, is excessive. *Interest above 3% per mensem presumed excessive. (E.M.A. 1927, sec. 10).*

(2) Where a Court re-opens a transaction of a moneylender under section 15, the Court may require the moneylender to produce any licence granted to him in accordance with the provisions of this Ordinance, and may cause such particulars as the Court thinks desirable to be endorsed on any such licence, and a copy of the particulars to be sent to the Registrar of Moneylenders. *Production and endorsement of licenses.*

(3) The powers of a Court under sub-section (3) of section 15 may be exercised notwithstanding that the moneylender's right of action for the recovery of the money lent is barred. *Court may act though debt is barred.*

17. Any agreement between a moneylender and a borrower or intending borrower for the payment by the borrower or intending borrower to the moneylender of any sum on account of costs, charges or expenses incidental to or relating to the negotiations for or the granting of the loan or proposed loan shall be illegal, and if any sum is paid to a moneylender by a borrower or intending borrower as for or on account of any such costs, charges or expenses, that sum shall be recoverable as a debt due to the borrower or intending borrower, or, in the event of the loan being completed, shall, if not so recovered, be set off against the amount actually lent and that amount shall be deemed to be reduced accordingly. *Prohibition of charge for expenses on loans by moneylender.*

Limitation of time for proceedings in respect of money lent by money-lenders. (E.M.A. 1927, sec. 13).

18.—(1) No proceedings shall lie for the recovery by a moneylender of any money lent by him after the commencement of this Ordinance or of any interest in respect thereof, or for the enforcement of any agreement made or security taken after the commencement of this Ordinance in respect of any loan made by him, unless the proceedings are commenced before the expiration of twelve months from the date on which the cause of action accrued:

Provided that—

Acknowledgment and undertaking by debtor.

(a) if during the period of twelve months aforesaid or at any time within any subsequent period during which proceedings may by virtue of this proviso be brought the debtor acknowledges in writing the amount due both as principal and interest and gives a written undertaking to the moneylender to pay those amounts, proceedings for the recovery of the amount due may be brought at any time within a period of twelve months from the date of the acknowledgment and undertaking;

Last payment becoming due under contract.

(b) the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run in respect of any payments from time to time becoming due to a moneylender under a contract for the loan of money until a cause of action accrues in respect of the last payment becoming due under the contract;

Lunacy of person entitled to take proceedings.

(c) if at the date on which the cause of action accrues or on which any such acknowledgment and undertaking as aforesaid is given by the debtor, the person entitled to take the proceedings is *non compos mentis*, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until that person ceases to be *non compos mentis* or dies, whichever first occurs; and

Debtor out of Colony.

(d) if at the date on which the cause of action accrues or on which any such acknowledgment and undertaking as aforesaid is given by the debtor, the debtor is out of the Colony, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until he returns to the Colony, so, however, that section 11 of the Mercantile Law Amendment Act 1856 (which relates to the limitation of actions against joint debtors where some are beyond

seas) shall have effect as if this section were included among the enactments therein referred to as fixing a period of limitation.

(2) Without prejudice to the powers of a Court under section 15, if at the time when proceedings are taken by a moneylender in respect of a default in the payment of any sum due to him under a contract for the loan of money, any further amount is outstanding under the contract but not yet due, the Court may determine the contract and order the principal outstanding to be paid to the moneylender with such interest thereon, if any, as the Court may allow up to the date of payment.

Power of Court to determine contract.

(3) In no case shall interest at any time be recoverable of an amount in excess of the sum then due as principal.

(Ceylon Ord. 2/18, sec. 5).

19.—(1) The provisions of sections 9, 17 and 18 of this Ordinance shall not apply in relation to any loan by a pawnbroker on a pledge, or in relation to any debt in respect of such a loan, or any interest thereon, notwithstanding that the loan is not made in the course of the business carried on by the pawnbroker in accordance with the Ordinances for the time being in force in relation to pawnbrokers, so long as the following conditions are complied with in respect of the loan—

(E.M.A. 1927, sec. 14).
Special provisions as to pawnbrokers' loans.

(a) The pawnbroker shall deliver or send to the pawner within seven days a note or memorandum containing all the terms of the contract, and in particular showing the date on which the loan is made, the amount of the principal of the loan, the interest charged on the loan expressed in terms of a rate per cent per mensem or per annum, and any other charges payable by the pawner under the contract, and the rate of interest charged shall not exceed the rate of one per cent per mensem or twelve per cent per annum;

Note of memorandum containing terms of contract.

(b) Subject as hereinafter provided, the pawner shall not be charged any sum on account of costs, charges or expenses incidental to or relating to the negotiations for or the granting of the loan or proposed loan, except a charge for the preparation of documents relating to the loan not exceeding the sum of fifty cents, and a charge equal to the actual amount of any stamp duty paid by the pawnbroker upon any such document:

Pawnee's costs.

Provided that a pawnbroker shall not be deemed to have failed to comply with the foregoing conditions by reason of his having made in good faith and in accordance with the terms of the contract for the loan—

- Charges of pawn-brokers. (i) a reasonable charge in respect of the storage or care of any pledge which is not physically delivered to him or which, although so delivered, is of such weight or size that it would not under the Post Office regulations for the time being in force be received for transmission by parcel post; or
- Charge of storage. (ii) a charge for interest at a rate not exceeding twenty per cent per annum upon any sum reasonably expended by the pawnbroker in respect of the storage or care of the pledge; or
- Charge for rendering account. (iii) a charge not exceeding fifty cents for rendering any account of the sale of any pledge; or
- Charge for inspection of books. (iv) a charge not exceeding fifty cents in respect of any inspection of the pawnbroker's books.
- Charge for stamp duty and preparation of documents may be deducted. (2) Any charge authorised by this section for the preparation of documents relating to a loan, or in respect of stamp duty upon any such document, may be deducted by the pawnbroker from the amount of the loan, and, if so deducted, shall be deemed for the purposes of this Ordinance to be included in the principal.

(E.M.A. 1927, sec. 16).
Notice and information to be given on assignment of money-lenders' debts.

20.—(1) Where any debt in respect of money lent by a moneylender whether before or after the commencement of this Ordinance or in respect of interest on any such debt or the benefit of any agreement made or security taken in respect of any such debt or interest is assigned to any assignee, the assignor (whether he is the moneylender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made—

- (a) give to the assignee notice in writing that the debt, agreement or security is affected by the operation of this Ordinance; and
- (b) supply to the assignee all information necessary to enable him to comply with the provisions of this Ordinance relating to the obligation to supply information as to the state of loans and copies of documents relating thereto,

Indemnity. and any person acting in contravention of any of the provisions of this section shall be liable to indemnify any other person who is prejudiced by the contravention, and shall also be guilty of an offence against this Ordinance, and shall in respect of each offence be liable on summary conviction to

imprisonment for a term not exceeding one year or to a fine not exceeding one thousand dollars. Penalty.

(2) In this section the expression "assigned" means assigned by any assignment *inter vivos* other than an assignment by operation of law, and the expressions "assignee" and "assignor" have corresponding meanings.

21.—(1) Subject as hereinafter provided, the provisions of this Ordinance shall continue to apply as respects any debt to a moneylender in respect of money lent by him after the commencement of this Ordinance, or in respect of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, notwithstanding that the debt or the benefit of the agreement or security may have been assigned to any assignee, and, except where the context otherwise requires, references in this Ordinance to a moneylender shall accordingly be construed as including any such assignee as aforesaid: (E.M.A. 1927, sec. 17). Application of Ord. as respects assignees.

Provided that—

(a) notwithstanding anything in this Ordinance—

- (i) any agreement with, or security taken by, a moneylender in respect of money lent by him after the commencement of this Ordinance shall be valid in favour of any *bonâ fidé* assignee or holder for value without notice of any defect due to the operation of this Ordinance and of any person deriving title under him; and Right of *bonâ fidé* holders for value, etc. under contracts with money-lenders.
- (ii) any payment or transfer of money or property made *bonâ fidé* by any person, whether acting in a fiduciary capacity or otherwise, on the faith of the validity of any such agreement or security, without notice of any such defect shall, in favour of that person, be as valid as it would have been if the agreement or security had been valid; and
- (iii) the provisions of this Ordinance limiting the time for proceedings in respect of money lent shall not apply to any proceedings in respect of any such agreement or security commenced by a *bonâ fidé* assignee or holder for value without notice that the agreement or security was affected by the operation of this Ordinance, or by any person deriving title under him,

but in every such case the moneylender shall be liable to indemnify the borrower or any other person who is prejudiced by virtue of this section, and nothing in this proviso shall render valid an agreement or security in favour of, or apply to proceedings commenced by, an assignee or holder for value who is himself a moneylender; and

(b) for the purposes of this Ordinance the provisions of section 79 of Ordinance No. 36 (Conveyancing and Law of Property) shall apply as if the expression "purchaser" included a person making any such payment or transfer as aforesaid.

Void agreements.

(2) Nothing in this section shall render valid for any purpose any agreement, security or other transaction which would, apart from the provisions of this Ordinance, have been void or unenforceable.

(Ceylon Ord. 2/18, sec. 13).
Penalty for taking blank or fictitious promissory note.

22. Any person who shall take as security for any loan a promissory note or other obligation in which the amount stated as due is to the knowledge of the lender fictitious, or in which the amount due is left blank, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five hundred dollars, or, in the event of a second or subsequent offence, either to a fine not exceeding one thousand dollars or imprisonment not exceeding six months.

(Ceylon Ord. 2/18, sec. 14).
Meaning of fictitious.

23. A promissory note or other obligation given in respect of a loan with regard to which at or about the time of the loan any payment was made, or any collateral transaction entered into with a view to disguising the actual amount of the sum advanced or the rate of interest payable in respect thereof, shall be deemed to be a promissory note or obligation in which the amount stated as due is, to the knowledge of the lender, fictitious within the meaning of section 22.

(E.M.A. 1900, sec. 4).
Speaking falsely to induce borrowing an offence.

24. If any moneylender, or any manager, agent or clerk of a moneylender, or if any person being a director, manager or other officer of any corporation carrying on the business of a moneylender, by any false, misleading or deceptive statement, representation or promise, or by any dishonest concealment of material facts, fraudulently induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed, he shall be guilty of an offence and shall be liable on summary conviction to imprisonment of either description, for a term not exceeding two years, or to a fine not exceeding three thousand dollars or to both.

SCHEDULE A.

FORM 1.

On demand (or months) after date I promise to pay to or order, the sum of \$ with interest thereon at per centum per annum (or per mensem).

.....
Signature of borrower.

FORM 2.

I promise to pay to or order \$ with interest thereon at per centum per annum (or per mensem) by equal monthly instalments of principal and interest at beginning on

.....
Signature of borrower.

FORM 3.

I promise to pay to or order \$ with interest thereon at per centum per annum (or per mensem) by equal monthly instalments of and one instalment of the balance a month afterwards.

First instalment to be paid on

.....
Signature of borrower.

A BILL
intituled

An Ordinance to amend Ordinance No. 44
(Bankruptcy).

It is hereby enacted by the Governor of the Straits Settlements with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as The Bankruptcy (Amendment) Ordinance, 1934. Short title.

2. Section 105 of Ordinance No. 44 (Bankruptcy) is hereby repealed and the following section substituted for it:— Substitution
of section
105.

Power for
Court to
make
interim
Order for
protection
of debtor
and inves-
tigation of
his affairs
in the case
of a salary
or wage
earner.

“105 (1) (a) Where a judgment has been obtained in the Supreme Court or in a District Court against a defendant whose only source of income in the opinion of such Court is a salary or wage and the debtor is unable to pay the amount forthwith and alleges that his whole indebtedness amounts to a sum exceeding the estimated amount of his income for three months the Court in which the judgment has been obtained may notwithstanding any limitation imposed on the jurisdiction

of District Courts by section 38 of Ordinance 101 (Courts) make an interim order for the protection of the debtor and his estate and for the investigation of his affairs.

(b) When any person satisfies a District Court

(i) that he owes money exceeding the estimated amount of his income for three months; and

(ii) that his only source of income is a salary or wage; and

(iii) that he is unable to pay his debts forthwith, such Court may, notwithstanding any limitation imposed on the jurisdiction of District Courts by section 38 of Ordinance No. 101 (Courts), if it thinks fit make an interim order for the protection of the debtor and his estate and for the investigation of his affairs.

(c) For the purpose of this sub-section income arising out of land or shares in an incorporated company (the debtor taking no part in the management of such company) or from any other source other than a trade or business not exceeding in all the sum of three hundred dollars per month shall be deemed to be salary.

Interim
Order to be
served.

(2) A copy of the Order shall be served forthwith on the judgment creditor if any and on the debtor and on the Official Assignee and on such other persons, if any, as such Court may in each case direct, and shall be published in the *Gazette* and in a local paper.

Effect of
Interim
Order.

(3) After the making of an order under sub-section (1) no creditor to whom the debtor is indebted in respect of any debt which would

have been provable in bankruptcy if a receiving order had been made at the same time shall have any remedy against the property or person of the debtor in respect of the debt or shall commence any action or other legal proceeding in respect of such debt unless with the leave of the Court and on such terms as the Court may impose.

Secured
creditors.

(4) This section shall not affect the power of any secured creditor to realise or otherwise deal with his security in the same manner as he would have been entitled to realise or deal with it if this section had not been passed.

Proceedings
consequent
on Interim
Order.

(5) On an order being made under sub-section (1) the debtor shall within two days after such order file an affidavit in the office of the Official Assignee containing a true and correct statement of his assets and liabilities.

(6) An order under sub-section (1) shall operate as a receiving order under section 4 provided that only such of the steps consequent on such an order as the Official Assignee shall in his discretion think desirable in the particular circumstances of each case shall be taken. The discretion of the Official Assignee under this section shall be subject to the control of the Court which made the order.

Report of
the Official
Assignee.

(7) As soon as may be after the making of the order the Official Assignee shall make and transmit to the Court which made the order a summary of the debtor's affairs and a report in the prescribed Form stating whether is the opinion of the Official Assignee:—

- (a) the debtor is insolvent;
- (b) the debtor has committed an act of bankruptcy prior to the date of the interim order;
- (c) the debtor has any material assets other than his personal earnings;
- (d) it is desirable in the interests of the creditors generally or on any other grounds that an administration order under this section should or should not be made; and
- (e) any other matters which the Official Assignee thinks such Court should consider.

Such Report shall be *prima facie* evidence of the facts stated therein

Proceedings consequent on Report.

(8) On receipt of the report such Court shall fix a day for the consideration thereof of which not less than seven days' notice shall be given to the judgment creditor, if any, the debtor, the Official Assignee and such other persons as such Court may consider necessary.

On the appointed day such Court shall consider the report in Open Court and shall hear any creditor who desires to be heard and the debtor and any other person who appears to such Court to be affected and such Court shall receive such further evidence, if any, as may be necessary. Such Court and any creditor and any such other person may examine the debtor.

Administration Order.

(9) At the conclusion of such consideration such Court may make an order for the administration of the estate of the debtor and for the payment of his debts by instalments or otherwise and either in full or to such extent as to such Court under the circumstances of the case appears practicable and subject to any conditions as to his future earnings or income which such Court may think just. When such order is made the proceedings shall be transmitted to the Official Assignee who shall carry the order into effect in such manner as is prescribed by general rules.

Extension of Interim Order where administration order refused.

(10) If such Court does not think fit to make an administration order but considers that the debtor cannot pay his debts such Court shall make an order extending the interim order for one month and if within that period a petition in bankruptcy is presented by or against the debtor the interim order shall continue in force until the petition has been granted or dismissed.

Discharge of Interim Order.

(11) If such Court is of opinion that the debtor can pay his debts such Court shall discharge the interim order.

Appropriation of portion of pay or salary to creditors.

(12) Where the debtor is a commissioned officer of the navy or army or air force or an officer or clerk or otherwise employed or engaged in the civil service of the Crown, the Official Assignee shall receive for distribution amongst the creditors so much of the debtor's

pay or salary as such Court, on the application of the Official Assignee, with the consent of the Chief officer of the department under which the pay or salary is enjoyed, directs.

(13) Before making an order under subsection (12) such Court shall communicate with the chief officer of the department as to the amount, time and manner of the payment to the Official Assignee, and shall obtain the written consent of the chief officer to the terms of such payment.

(14) Where the debtor is in the receipt of a salary or income other than as aforesaid, or is entitled to any half-pay or pension or compensation granted by the Government, such Court on the application of the Official Assignee, shall, subject to the provisions of any written law for the time being regulating the grant and payment of pensions, from time to time make such order as it thinks just for the payment of the salary, income, half-pay, pension or compensation or of any part thereof to the Official Assignee, to be applied by him in such manner as such Court directs.

(15) Nothing in this section shall take away or abridge any power of the Government to dismiss a debtor or to declare the pension, half-pay or compensation of any debtor to be forfeited.

(16) Any person against whom an administration order has been made under this section shall be punished with imprisonment of either description which may extend to six months or with fine or with both if while the order is still in force he obtains credit to the extent of twenty-five dollars or upwards from any person without informing that person that an administration order is in force against him.

(17) The Court may if it sees fit vary from time to time any order made by it under this section.

(18) If the Official Assignee files in the Court a Certificate that the debtor has complied with the order of the Court so far as the debts specified in the Certificate are concerned the Court may make an order that the debtor be discharged from those debts."

OBJECTS AND REASONS.

The existing section 105 of Ordinance No. 44 (Bankruptcy) empowers the appropriate Court to make an Administration Order in the case of an Insolvent Judgment Debtor whose total indebtedness does not exceed \$500 and to direct payment by instalments.

This provision has been of very little use in recent years because nearly all insolvents of the clerical class are indebted in sums exceeding \$1,000. In consequence, the Courts, especially the District Courts, are congested with Judgment Debtor Summonses and other proceedings against debtors which interfere with employment and are often used oppressively.

Sub-clause 1 (a) of the Bill empowers (but does not require) the Court to make an INTERIM Order for the investigation of the affairs of a Judgment Debtor, whatever the amount of his total debts, provided they exceed three months' income and provided that he is a person whose only source of income is a wage or salary.

Sub-clause 1 (b) enables a debtor himself to apply for such an Order although no Judgment may have been given against him.

By sub-clauses (3) and (4) such an INTERIM Order will stop all proceedings against the debtor but all the rights of secured creditors are saved. These provisions are identical with section 8 (1) and (2) of the Ordinance, ("Effect of Receiving Order") and apply to Administration Orders under the existing section 105.

Sub-clauses (5) and (6) provide for such investigation of the debtor's affairs by the Official Assignee as may be necessary in each case.

Under sub-clause (7) the Official Assignee is to make a report to the Court with a summary of the debtor's financial position.

With this information before it the Court will then consider whether to make an Order for payment by instalments and distribution of dividends by the Official Assignee.

The matter will be entirely in the discretion of the Court and in any particular case ordinary bankruptcy proceedings may be substituted if the Court thinks that course more suitable.

Sub-clauses (12) to (15) provide for the deduction of instalments from salary by the employer which is essential if the Order is to be effective. This avoids the inconvenience and waste of constant proceedings in Court. These provisions are identical with section 55 of the Ordinance and have been in force in England since 1883.

Sub-clause (16) imposes on persons protected by an Administration Order the same penalties for further borrowing as is now imposed in the case of a person subject to an adjudication order.

By this means many members of the clerical class will be enabled to pay their debts in full, by instalments, because their affairs will be administered at an earlier stage of insolvency and by a simpler and cheaper procedure which has been evolved out of the practical experience of Judges and Bankruptcy Officers. Preliminary investigation by the Official Assignee is already routine in the case of Debtors' petitions. The Judges at times of their own motion adjourn creditors' petitions for similar enquiry.

GOVERNMENT OF THE STRAITS
SETTLEMENTS.

BILL

TO

Amend Ordinance No. 44 (Bankruptcy).



CANADIAN FARM LOAN BOARD

40

HEAD OFFICE
JACKSON BUILDING
OTTAWA

December 31, 1936

Dear Sir:

In reply to your request, transmitted through the Minister of Agriculture, I take pleasure in enclosing herewith an Office Consolidation of the Canadian Farm Loan Act, together with a copy of Summary of Loan Conditions, and copies of our Application and Appraisal forms.

We have also made a note to forward you within the course of the next two weeks a copy of our last year's Annual Report on the Board's operations, which will be available at that time.

Yours faithfully,

CANADIAN FARM LOAN BOARD

A.H. Brown
A.H. BROWN
Secretary

Mr. S.G. Vare,
Secretary of the Servants
of India Society,
Poona No. 4,
India.

X9(U); 6 : (27)

96

AHB:MJR.

Enclosures

REPAYMENT "FIRST" MORTGAGE LOANS:

The following terms of repayment are open to the borrower:

25 Annual Instalments of	\$ 7.10	per \$100.00 of loan.
15 Annual Instalments of	\$ 9.64	per \$100.00 of loan.
10 Annual Instalments of	\$ 12.96	per \$100.00 of loan.

The payments set out above will serve to provide for the payment of interest and to retire the principal of the loan.

The Board reserves the right in appropriate cases to fix a shorter term of loan than that applied for. Payments may be provided for half-yearly instead of yearly at the option of the applicant, or may be so fixed by the Board.

The Board may fix, or an applicant may obtain, a 5 year term of loan, requiring payment of interest yearly, plus a payment on account of principal yearly, with the major portion of the principal falling due at the end of the 5th year.

REPAYMENT "SECOND" MORTGAGE LOANS:

Plan No. 1—Interest only to next instalment date and FIVE equal annual instalments of Principal with Interest at 6%.

INSTALMENTS ARE ARRANGED TO BE PAYABLE IN THE SPRING AND FALL

SUMMARY OF LOAN CONDITIONS

FIRST MORTGAGE LOANS

Who May Qualify for Loan	Any person who is the owner of farm lands and whose principal occupation is farming; and who is actually engaged in or shortly to become engaged in the cultivation of the farm he offers as security for loan. The applicant must have the necessary experience, ability and character to satisfy the Board that he will successfully cultivate the farm offered as security for a loan, and will provide for the repayment of the loan made to him.
Purpose of Loan	To pay debts, purchase livestock or farm equipment, to make farm improvements, provide for expenses of farm operation, or to assist in the purchase of farm lands. (Note: In applying for a loan to assist in the purchase of farm lands, the applicant should be in a position to pay the balance of the purchase price in excess of the loan granted which is required to complete the purchase and obtain title. It should be noted that the maximum loan to assist in land purchase cannot exceed one-half of the appraised value placed on the lands offered to secure such loan.)
Amount of Loan	Not in excess of 50 per cent of the appraised value of the farm (land and buildings) offered as security for loan nor in any event in excess of \$5,000.
Security	A first mortgage on farm lands under cultivation and owned and operated by the applicant. Farm lands under lease cannot be accepted as security for a loan.
Rate of interest	5% per year and 5½% on arrears.
Repayment	Amortized plan of repayment in equal consecutive annual or semi-annual instalments over a period not in excess of 25 years.
Appraisal	Every farm offered as security for loan must be appraised by one of the Board's appraisers before loan is granted.
Appraisal fee	A fee of \$10 is required with each application for loan to apply on the costs of appraisal and handling of applications but the fee will be refunded if appraisal be not made. If, however, an appraisal of the farm be made, the fee will be retained by the Board irrespective of whether or not the applicant is successful in obtaining a loan.
Costs	The applicant will be responsible for costs involved in search and perfection of titles, completion and registration of the mortgage.
Where to Apply	Apply to the provincial office of the Board for the province in which the farm lands offered as security are situated, as shown hereunder.

SECOND MORTGAGE LOANS

Who May Qualify for Loan	Anyone applying for a first mortgage loan may at the same time apply for a second mortgage loan. The applicant may make his application for the amount of loan he requires. The Board will decide after appraisal the amount that will be advanced on first mortgage loan and the amount to be advanced on second mortgage loan.
Purpose of Loan	To pay debts, purchase stock, machinery, equipment to operate the farm offered as security for loan, to make permanent improvements thereon.
Amount of Loan	Not to exceed one-half of the amount of first mortgage loan, the total amount of the first mortgage loan and the second mortgage loan not to exceed two-thirds of the appraised value of the land and buildings thereon, nor in any event \$6,000.
Security	A second mortgage on the farm lands accepted as security for a first mortgage loan and a bill of sale by way of mortgage on the applicant's livestock, farm machinery and equipment.
Rate of interest	6% per year.
Repayment	Repayable within period of 6 years. See plan below.
Appraisal	The farm offered as security for loan and applicant's livestock, machinery and equipment must be appraised by the Board's appraisers before a loan is granted.
Appraisal fee	In event of a second mortgage loan being granted, an additional charge may be made by the Board to apply against appraisal costs and the costs of handling the application and the amount thereof retained out of the proceeds of loan. No charge will be made if second mortgage loan is not granted.
Costs	Applicant will be responsible for costs involved in search of title, drawing and completion of mortgage, registration thereof.
Where to Apply	Apply to the provincial office of the Board for the province in which the farm lands offered as security are situated.

PROVINCIAL OFFICES:

BRITISH COLUMBIA.....	Canadian Farm Loan Board, Victoria, B.C.
ALBERTA	Canadian Farm Loan Board, Edmonton, Alta.
SASKATCHEWAN	Canadian Farm Loan Board, Regina, Sask.
MANITOBA	Canadian Farm Loan Board, Winnipeg, Man.
ONTARIO	Canadian Farm Loan Board, Toronto, Ont.
QUEBEC	Canadian Farm Loan Board, Quebec, P.Q.
NEW BRUNSWICK.....	Canadian Farm Loan Board, Saint John, N.B.
NOVA SCOTIA.....	Canadian Farm Loan Board, Halifax, N.S.
PRINCE EDWARD ISLAND.....	Canadian Farm Loan Board, Charlottetown, P.E.I.

REPAYMENT "FIRST" MORTGAGE LOANS:

The following terms of repayment are open to the borrower:

25 Annual Instalments of	\$ 7.10	per \$100.00 of loan.
15 Annual Instalments of	\$ 9.64	per \$100.00 of loan.
10 Annual Instalments of	\$ 12.96	per \$100.00 of loan.

The payments set out above will serve to provide for the payment of interest and to retire the principal of the loan.

The Board reserves the right in appropriate cases to fix a shorter term of loan than that applied for. Payments may be provided for half-yearly instead of yearly at the option of the applicant, or may be so fixed by the Board.

The Board may fix, or an applicant may obtain, a 5 year term of loan, requiring payment of interest yearly, plus a payment on account of principal yearly, with the major portion of the principal falling due at the end of the 5th year.

REPAYMENT "SECOND" MORTGAGE LOANS:

Plan No. 1—Interest only to next instalment date and FIVE equal annual instalments of Principal with Interest at 6%.

INSTALMENTS ARE ARRANGED TO BE PAYABLE IN THE SPRING AND FALL

SUMMARY OF LOAN CONDITIONS

FIRST MORTGAGE LOANS

Who May Qualify for Loan Any person who is the owner of farm lands and whose principal occupation is farming; and who is actually engaged in or shortly to become engaged in the cultivation of the farm he offers as security for loan. The applicant must have the necessary experience, ability and character to satisfy the Board that he will successfully cultivate the farm offered as security for a loan, and will provide for the repayment of the loan made to him.

Purpose of Loan To pay debts, purchase livestock or farm equipment, to make farm improvements, provide for expenses of farm operation, or to assist in the purchase of farm lands. (Note: In applying for a loan to assist in the purchase of farm lands, the applicant should be in a position to pay the balance of the purchase price in excess of the loan granted which is required to complete the purchase and obtain title. It should be noted that the maximum loan to assist in land purchase cannot exceed one-half of the appraised value placed on the lands offered to secure such loan.)

Amount of Loan Not in excess of 50 per cent of the appraised value of the farm (land and buildings) offered as security for loan nor in any event in excess of \$5,000.

Security A first mortgage on farm lands under cultivation and owned and operated by the applicant. Farm lands under lease cannot be accepted as security for a loan.

Rate of Interest 5% per year and 5½% on arrears.

Repayment Amortized plan of repayment in equal consecutive annual or semi-annual instalments over a period not in excess of 25 years.

Appraisal Every farm offered as security for loan must be appraised by one of the Board's appraisers before loan is granted.

Appraisal Fee A fee of \$10 is required with each application for loan to apply on the costs of appraisal and handling of applications but the fee will be refunded if appraisal be not made. If, however, an appraisal of the farm be made, the fee will be retained by the Board irrespective of whether or not the applicant is successful in obtaining a loan.

Costs The applicant will be responsible for costs involved in search and perfection of titles, completion and registration of the mortgage.

Where to Apply Apply to the provincial office of the Board for the province in which the farm lands offered as security are situated, as shown hereunder.

SECOND MORTGAGE LOANS

Anyone applying for a first mortgage loan may at the same time apply for a second mortgage loan. The applicant may make his application for the amount of loan he requires. The Board will decide after appraisal the amount that will be advanced on first mortgage loan and the amount to be advanced on second mortgage loan.

To pay debts, purchase stock, machinery, equipment to operate the farm offered as security for loan, to make permanent improvements thereon.

Not to exceed one-half of the amount of first mortgage loan, the total amount of the first mortgage loan and the second mortgage loan not to exceed two-thirds of the appraised value of the land and buildings thereon, nor in any event \$6,000.

A second mortgage on the farm lands accepted as security for a first mortgage loan and a bill of sale by way of mortgage on the applicant's livestock, farm machinery and equipment. 6% per year.

Repayable within period of 6 years. See plan below.

The farm offered as security for loan and applicant's livestock, machinery and equipment must be appraised by the Board's appraisers before a loan is granted.

In event of a second mortgage loan being granted, an additional charge may be made by the Board to apply against appraisal costs and the costs of handling the application and the amount thereof retained out of the proceeds of loan. No charge will be made if second mortgage loan is not granted.

Applicant will be responsible for costs involved in search of title, drawing and completion of mortgage, registration thereof.

Apply to the provincial office of the Board for the province in which the farm lands offered as security are situated.

PROVINCIAL OFFICES:

BREITISH COLUMBIA.....	Canadian Farm Loan Board, Victoria, B.C.
ALBERTA	Canadian Farm Loan Board, Edmonton, Alta.
SASKATCHEWAN	Canadian Farm Loan Board, Regina, Sask.
MANITOBA	Canadian Farm Loan Board, Winnipeg, Man.
ONTARIO	Canadian Farm Loan Board, Toronto, Ont.
QUEBEC	Canadian Farm Loan Board, Quebec, P.Q.
NEW BRUNSWICK.....	Canadian Farm Loan Board, Saint John, N.B.
NOVA SCOTIA.....	Canadian Farm Loan Board, Halifax, N.S.
PRINCE EDWARD ISLAND.....	Canadian Farm Loan Board, Charlottetown, P.E.I.

REPAYMENT "FIRST" MORTGAGE LOANS:

The following terms of repayment are open to the borrower:

25 Annual Instalments of	\$ 7.10	per \$100.00 of loan.
15 Annual Instalments of	\$ 9.64	per \$100.00 of loan.
10 Annual Instalments of	\$ 12.96	per \$100.00 of loan.

The payments set out above will serve to provide for the payment of interest and to retire the principal of the loan.

The Board reserves the right in appropriate cases to fix a shorter term of loan than that applied for. Payments may be provided for half-yearly instead of yearly at the option of the applicant, or may be so fixed by the Board.

The Board may fix, or an applicant may obtain, a 5 year term of loan, requiring payment of interest yearly, plus a payment on account of principal yearly, with the major portion of the principal falling due at the end of the 5th year.

REPAYMENT "SECOND" MORTGAGE LOANS:

Plan No. 1—Interest only to next instalment date and FIVE equal annual instalments of Principal with Interest at 6%.

INSTALMENTS ARE ARRANGED TO BE PAYABLE IN THE SPRING AND FALL

N. B.—It is not necessary to pay anyone a commission to secure a loan. Write direct to the Branch Office of the Board. Use pen and ink or typewriter in completing this form.

Form No. 1 E.—
(1936 Revision)

APPLICATION FOR LOAN

Application No.....
Loan No.....

A.F. \$.....

TO

THE CANADIAN FARM LOAN BOARD

I..... P.O.....
(Print in full name in block letters) (Post Office)

..... in the Province of.....
do hereby apply to the Board for a loan of \$..... to be repaid with interest at the Board's current rate on such loans, in 25..... equal, consecutive..... annual payments of combined principal and interest, the first of such instalments to be payable on the First day of..... next, and to be subject to an allowance for unearned interest, the interest to be computed from the date of advance of the mortgage moneys, such loan to be secured by a first mortgage on the freehold property described below. (Payment dates are December 1 or June 1). If and to the extent that a first mortgage loan is not granted by the Board in the amount applied for above, I hereby apply for a loan, to be secured by a second mortgage on the freehold property described below and a chattel mortgage on such live stock and personal property as the Board may require, the additional advance to be repaid by annual instalments over a period of six years, with interest at the Board's current rate on such loans.

LANDS OFFERED AS SECURITY

Brief Legal Description Of Each Lot or Parcel	Total Acres	Date Acquired	Purchased, Will, Gift Crown Grant	If Purchased			
				Orig. Purch. Price	Cash Paid When Pchad.	Int. Rate	Balance now owing
.....				\$.....	\$.....	%	\$.....
.....				\$.....	\$.....	%	\$.....
.....				\$.....	\$.....	%	\$.....
.....				\$.....	\$.....	%	\$.....

GIVE FULL LEGAL DESCRIPTION OF PROPERTY ON A1 FORM ATTACHED

Has patent issued?..... In whose name is property registered?..... Who holds title papers?..... List improvements made since occupation, and cost of each.....

..... Cost \$.....
Present encumbrances on property. Give PARTICULARS below of mortgages and /or balance owing on Agreement for Sale, and other charges against title such as judgments, liens, and so forth.

Name of Mortgagee or Vendor or Other Secured Creditor	Year of mortgage or sale	Interest rate	Original amount	Interest arrears	Total amount still owing
1.....	19.....	%	\$.....	\$.....	\$.....
2.....	19.....	%	\$.....	\$.....	\$.....
3.....	19.....	%	\$.....	\$.....	\$.....

PURPOSE OF LOAN	DESCRIBE FULLY	AMOUNT
(A) To pay following creditors. (Give list of creditors and amount owing to each.)	\$.....
(B) To provide buildings and improvements. (Give size, material, etc.)	\$.....
(C) To purchase equipment, fertilizer, live-stock, etc. (Describe fully and give amount for each purpose).	\$.....
(D) To provide working capital for my farming operations and pay costs of mortgage.	\$.....
(E) Any other purposes (Describe fully).	\$.....
	TOTAL—(This must equal the amount herein applied for	\$.....

AI

APPLICATION NO.

To be attached to and form part of my application to the CANADIAN FARM LOAN BOARD
dated day of 19....., being a
full and complete legal description of the property offered by me as security for a loan of
\$

..... Applicant

DESCRIPTION

I certify that the above is a correct description of the property offered by

3.
LANDS OFFERED AS SECURITY

Application No.....
Loan No.....

Is land in one block?..... If not, how far apart are lots?.....mi.
..... How long have you farmed this land?.....yrs. Are you residing
on this land continuously?..... Occupying the buildings?..... Are you farming the
land yourself?..... If not, explain.....

Have you sold or leased any of this land?..... If so, give particulars of acreage sold or leased and date
of expiry of lease.....

Do you intend to continue to occupy the buildings and operate this farm if a loan is granted?.....
What immediate changes, if any, do you plan to make in your farming methods and operations?.....

Total area.....acres; under cultivation.....acres; additional acres arable.....acres;
Acres last year in crop?.....; in temporary pasture?.....; in permanent pasture?.....;
acres in firewood?.....; in building timber?.....; pulpwood?.....;
Is soil heavy or light?..... Clay, loam or sandy?..... Colour.....
How many acres of level land?.....acres. Rolling?..... Coulee and hill?.....
Acres fenced?..... Describe fences, wire, barbed wire, pole, stone?.....
Have you running water in your house and stable?..... Is your water supply ample?.....
Is your land under a drainage scheme?..... How is your land drained: By covered drains?.....
Open ditches?..... Natural drainage?..... If tile drained, No. of acres?.....
What was the assessed value of this land last year? \$.....
What were your taxes last year for: Municipal \$..... School \$.....
Roads, bridges \$..... Other taxes (specify).....
..... Total taxes \$.....
Total tax arrears \$..... Give names of all municipalities or parishes in which land is situated

BUILDINGS (Show only such buildings as are actually on land offered as security.)

Buildings	Size	Material	Height Stories	Roof Material	Age	Foundation	Value	Insured for
House.....	X						\$.....	\$.....
Addition.....	X						\$.....	\$.....
Barn.....	X						\$.....	\$.....
Stable.....	X						\$.....	\$.....
Addition.....	X						\$.....	\$.....
Silo.....	X						\$.....	\$.....
Hog Pen.....	X						\$.....	\$.....
Hen House.....	X						\$.....	\$.....
.....	X						\$.....	\$.....
.....	X						\$.....	\$.....

Chimney.....From basement up, or bracket?.....Totals \$..... \$.....

(Brick or Metal)
What type of lighting in buildings?..... What type of floors in stable?.....

If buildings insured give name of insurance company.....

Value of land \$..... Amount buildings add to value of land \$..... Total \$.....

At what price would this farm sell to day? On terms \$..... For cash \$.....

Give the following information for last crop year and state year. Year 193.....and give average yearly crop
returns for last 5 years.

Kind of Crop	Acres	Last Year's Crop	Value	Average Yearly Crop	Kind of Crop	Acres	Last Year's Crop	Value	Average Yearly Crop
Potatoes.....		bu.	\$.....	bu.	Oats.....		bu.	\$.....	bu.
Tree Fruits.....		{ bbls. boxes	\$.....	{ bbls. boxes	Wheat.....		bu.	\$.....	bu.
Vegetables.....		bu.	\$.....	bu.	Barley.....		bu.	\$.....	bu.
Roots.....		bu.	\$.....	bu.	Buckwheat.....		bu.	\$.....	bu.
Small Fruits.....			\$.....		Rye.....		bu.	\$.....	bu.
Hay {	Tame.....	tons	\$.....	tons	Ensilage.....		tons	\$.....	tons
	Marsh.....	tons	\$.....	tons	Others.....			\$.....	

Was this crop grown on land proposed to be mortgaged?..... Total value of this crop \$.....

Was last year's crop an average one?..... Explain?.....

PERSONAL

What other occupation do you follow at present, if any?.....
 What is your average yearly income therefrom \$.....Do you receive a pension or annuity.....
 From what source?.....Amount \$.....
 Give Age.....Nationality.....Married or Single.....
 Children at home?.....How long have you resided on this
 land?.....
 Give full particulars.....
 Agricultural training courses?.....
 Are you in good health?.....What Life Insurance do you carry \$.....
 What Company?.....State amount of policy loan or
 premium arrears \$.....Give names and ages of sons who work with you on land.....
 Have you made a proposal under the Farmers Creditors Arrangement Act?.....
 If so, has such proposal been finally approved? (give particulars and name and address of Official Receiver).....

N. B. If applicant has made an approved composition with his creditors under said Act, he should forward with this application particulars of date and terms of composition, name of Official Receiver with whom filed.

I make this application for loan subject to the following conditions:—

1. That I will execute a mortgage on the Board's form as a first charge on said lands as security for the amount of loan granted by the Board on first mortgage security and a second mortgage on said lands and a chattel mortgage on all or such of my goods and chattels, stock and machinery as required by the Board as security for such additional amount of loan as may be granted by the Board on such security and that I will pay all fees and disbursements incurred by the Board in the investigation of title and the perfecting thereof, and I hereby charge said lands with the payment of such costs.

2. That all prior claims affecting title will be removed by me or may be paid by the Board out of the proceeds of the loans granted and that the Board will not be held responsible for the correctness of the said claims.

3. That if after approval of this application I fail within one month after notification of such approval to execute any documents deemed necessary by the Board to complete the security, I will pay all expenses incurred by the Board in the consideration of the application and in the investigation of title.

4. That I will insure the buildings on said property taken as security for loan up to their full insurable value if required by the Board.

5. I hereby certify that the statements contained in this application are true and correct; that I have suppressed no information about any of the security which would adversely affect its value; that I have no debts other than those listed herein; that no suits are pending against me in any court of law; and that any mis-statement of fact contained herein shall entitle the Board to cancel the loan and require immediate repayment of all moneys secured by the mortgage and expenses incurred.

6. I hereby authorize and request the Board to remit the amount of loan or loans granted to me.....
 at.....P.O., by cheque, payable to the order of
 myself.....by mail at my risk, first paying thereout the amount of solicitor's costs
 incurred, and all prior claims and encumbrances affecting title to said real and personal property.

Dated the.....day of.....19.....

Witness.....
 Wife's or husband's full name.....
 Applicant.....
 Will he or she consent to mortgage?.....
 (Sign above)

IMPORTANT

Enclose with this application form:—Inspection fee of Ten Dollars. Inspection fee will be retained if appraisal made whether application is approved or declined.

Address all communications to:—

THE CANADIAN FARM LOAN BOARD

(Do not fill in—for the use of The Board only).

APPRAISER'S REPORT

Application No.....

Form No. 2E

TO

Amount \$.....

CANADIAN FARM LOAN BOARD

Loan No.....

Name.....; P.O. Address.....; County.....
(of applicant in full)

Land: (Give Lots No., Range or Concession, Township).....

Are all of these lots in same municipality?.....; Total acreage inspected.....acres.

Have all the lots inspected an access to a Public Road?.....Are you certain property inspected is that named in application and that buildings are on said property?.....

How did you identify this property?.....

CHARACTER OF DISTRICT IN WHICH ABOVE PROPERTY IS SITUATED

Is this a colonization district or a well developed agricultural district?.....
How long has district been settled?.....Has the average farm more than half of the acreage under cultivation?.....Describe type and condition of roads.....

Describe surface: Hilly?.....; Rolling?.....; Level?.....

Describe soil: Heavy?.....; Light?.....; Gravelly?.....

How are principal farm crops disposed of in this district: By sale?.....; By feeding?.....

Is farming in this district: Improving?.....; Holding its own?.....; Going back?.....

Are farms in the district readily saleable, or otherwise?.....

Give particulars of any recent sales:.....

Comment on any of the following features as affecting farm returns and land values and sales in this district:

Vacant farms, taxation, distance from markets, roads:.....

APPLICANT'S FARM PROPERTY AS INSPECTED

How many miles is the farm by road from:—

R.R. or S.S. shipping point?..... miles; Market Town?..... miles;
(Name) (Name)

Cheese factory?..... miles; Church?..... miles; Schools?..... miles.

Type of road passing applicant's farm..... Miles dirt road to market?..... miles.

Describe Soil as:—Heavy?.....; Light?.....; Medium?.....

Describe Land as:—Very stony?.....; Stony?.....; Few?.....; None?.....

State condition of farm with respect to weeds:—Bad?.....; Fairly free?.....; Free?.....

Acres in each kind of crop?.....

How would you describe the cultivation and operation of this farm?.....

Classify under:—(a) Very well.....; (b) Well.....; (c) Fairly well.....;

(d) Poorly.....

Does land require underdrainage?..... If underdrained at present, state whether: Tile.....;

Wood.....; Open ditches.....; Natural drainage.....

Is land of applicant under a public, community, or a private system for purposes of:—Dyking?.....;

Irrigation?.....; If so, state the annual charges \$..... Is applicant in arrears for such

payments?..... If so, number of years:.....years, and amount: \$.....

Has applicant got a first water record?.....Is water licence permanent and

fees paid?..... (Applicable to B.C. only.)

Is the farm provided with an ample supply of good water?.....

Is there running water in house and stable?.....

Describe fencing and cross fencing (stating type, length, condition).....

Comment briefly on the condition, appearance and location of the farm, buildings, etc.....

Is there an orchard on this farm?.....If so, give the acreage.....ac.; No. of trees?.....

Are applicant's taxes in arrears?.....If so, the number of years.....; Amount? \$.....

How does this farm compare with the average in the locality as to: Location.....;

Quality of soil ; Cultivation

LAND VALUE AND DESCRIPTION

Parcel No. 1—(Whole farm where a unit, or of the home parcel. Where several parcels comprise the farm, submit supplementary reports on additional parcels).

Valuation shown below covers the following lots or parcels:—

LAND:—(A) CULTIVATED, INCLUDING TAME HAY—

Acres	Level, Rolling, Hilly	Soil		Nature of Subsoil	State of Fertility	Value per Acre	Total Value
		Kind	Depth				
						\$.....	\$.....
						\$.....	\$.....
						\$.....	\$.....

(B) ARABLE BUT UNCULTIVATED—

Acres	Level, Rolling, Hilly	Soil		Nature of Subsoil	Nature of reclamation required, and cost	Value per Acre	Total Value
		Kind	Depth				
						\$.....	\$.....
						\$.....	\$.....
						\$.....	\$.....

(C) UNPROFITABLE FOR CULTIVATION AT PRESENT—

Permanent Pasture.....	\$.....	\$.....
Timber Land: Fire, Pulp and Cord Wood.....	\$.....	\$.....
OTHER LAND (describe).....	\$.....	\$.....
	\$.....	\$.....

..... Total Acreage. Total Value..... \$.....

BUILDINGS—SITUATED ON LOT Mark Buildings which are painted with a "P".

Buildings	Size	Material	Height	Roof	Age	Repair	Value	Insurable Value
House.....	x						\$.....	\$.....
Addition.....	x						\$.....	\$.....
Barn.....	x						\$.....	\$.....
Addition.....	x						\$.....	\$.....
Stable.....	x						\$.....	\$.....
Silo.....	x						\$.....	\$.....
Granary.....	x						\$.....	\$.....
Poultry House.....	x						\$.....	\$.....
Shed or Garage.....	x						\$.....	\$.....
Hog Pen.....	x						\$.....	\$.....
	x						\$.....	\$.....
	x						\$.....	\$.....

Condition of paint?..... Total Value of Buildings \$..... \$.....

Who is occupying the above buildings?.....

Chimney (brick or metal)..... Built from Foundation, or Bracket?.....

Foundation House and Principal Buildings.....

Insurance in force? \$.....; Insurance Company?.....; Expiry Date?.....

Are the buildings advantageously located on the farm, or otherwise?.....

Are the buildings in need of repairs?..... If so, explain and give estimate of cost.....

Give complete details of any new buildings to be erected from proceeds of loan.....

SUMMARY OF VALUES

*Trees (orchard).....	\$.....
Value of land.....	\$.....
Value of buildings to land.....	\$.....
	Total \$.....

**Sale Value on Usual Terms \$.....; Forced Sale Value with 20% Cash \$.....

Comment on improvements made by applicant since acquiring property.....

Having carefully examined the property offered as security as mentioned herein, I certify that this report is correct to the best of my judgment.

Date of Inspection.....

Appraiser

CROP YIELD REPORT					CASH RECEIPTS		EXPENDITURES	
Last year 19			Average Year		Last year from sale of	Amount	Last year for	Amount
Kind	Acres	Quantity	Acres	Quantity				
Timothy.....		Tons		Tons	Hay.....	\$.....	Mortgage.....	\$.....
Red Clover.....		Tons		Tons	Straw.....		Land Purchase.....	
Alfalfa.....		Tons		Tons	Grain.....		Taxes.....	
Other Hay.....		Tons		Tons	Potatoes.....		Building Repairs.....	
Oats.....		Bu.		Bu.	Maple Syrup.....		Fencing.....	
Wheat.....		Bu.		Bu.	Honey.....		Wages.....	
Barley.....		Bu.		Bu.	Horses.....		Horses.....	
Corn.....		Bu.		Bu.	Cattle.....		Dairy Stock.....	
Buckwheat.....		Bu.		Bu.	Wool.....		Feeder Cattle.....	
Potatoes.....		Bu.		Bu.	Sheep.....		Sows.....	
Turnips.....		Bu.		Bu.	Hogs.....		Feeder Pigs.....	
Mangels.....		Bu.		Bu.	Meat.....		Machinery.....	
Ensilage.....		Tons		Tons	Poultry.....		Fertilizer.....	
Others.....					Eggs.....		Seed.....	
					Dairy Products.....		Feed.....	
					Wood or Timber.....		Living Expenses.....	
					Other Farm.....		Sundry.....	
					Revenue.....			
					Total Farm Revenue.....	\$.....	Total Expenditures.....	\$.....

If money borrowed for any of above purposes, for what, from what source, and how much?.....

PERSONAL REPORT ON APPLICANT

Age.....; M. or S.....; Nationality.....; Health.....

Sons at home.....; Daughters at home.....

(Give age of each)

(Give age of each)

Is borrower working land in person?.....; Does he follow any other occupation?.....

What is your impression of the applicant: Is he trustworthy?.....; Thrifty?.....

A good manager?.....; A good farmer?.....; Will he be able to meet instalments on this loan after making provision for other expenses and liabilities?.....

Disability of applicant, if any.....; Has borrower filed a proposal under the Farmers' Creditors Arrangement Act?.....; If so, give particulars of proposal and present status of same.....

Life Insurance carried \$.....; Annual premium \$.....; Policy Loan \$.....

Applicant's Wife and Home?.....

(Discuss fully from point of view of an asset or liability)

How did you check on applicant?.....

(State from whom you enquired, and general report received)

Comment on applicant's larger debts, giving date and reason for which each was incurred:.....

If applicant owns other lands not offered as security, give full particulars:.....

Give estimate of value of such other lands: \$.....; Encumbrances, if any: \$.....

If applicant is the owner of other valuable assets, apart from land, stock and equipment, give particulars:.....

Notes.—Make a rough diagram of the farm and number of acres in each field marking as follows:—C.L.—Cultivated Land; P.P.—Permanent Pasture; W.—Woods; M.R.—Main Road; R.—River; H.—House; B.—Barn; S.—Stable; etc. If lots do not adjoin, state distance apart. Show names of neighbours living on adjoining lands. Trace boundary of land inspected in map.

NEIGHBOURS
N

NEIGHBOURS
W

NEIGHBOURS
E

X90) 6: (272)

G6

DEPARTMENT OF
FINANCE



CANADA

Room 274, East Block,
Ottawa, December 29th, 1936.

41

Dear Mr. Vars:

Your communication of the 6th ultimo addressed to the Honourable the Minister of Agriculture has been referred to me and in accordance with your request I am enclosing a copy of the Farmers' Creditors Arrangement Act as amended and a copy of the regulations pertaining to that Act and have requested the Secretary of the Canadian Farm Loan Board to forward to you a copy of the Canadian Farm Loan Act together with amendments and such statistical information as may be available with respect to that measure.

No report has been published touching on the progress of the administration of the Farmers' Creditors Arrangement Act, but I may inform you that approximately 25,000 proposals have been submitted by farmers under this legislation; voluntary settlements have been effected by Official Receivers in 6,458; settlements have been effected by Boards of Review in 2,457; additional voluntary settlements have been effected by Official Receivers outside the purview of the Act in 4,486 cases.

Statistical information is available at the moment with regard to 13,759 cases which have been settled in which the total debt involved is \$83,464,184.81. The reductions effected in this debt are \$25,192,589.74, the average debt per case \$6,066.15; the average reduction per case \$1,830.99; the annual interest reduction per case \$153.02.

In several Canadian provinces moratory legislation is in effect under which creditors are precluded from instituting foreclosure proceedings or effecting seizure under certain definitely defined conditions.

S. G. Vars, Esq.,
Secretary,
Servants of India Society,
Poona, No. 4, India.

- 2 -

In the province of Alberta the Reduction and Settlement of Debts Act was recently passed but is now before the Courts on the question of its validity. A copy of that Act I am enclosing.

I trust this information will be of some service to you.

Yours very truly,

A handwritten signature in cursive script, appearing to read 'H. F. Gordon', written in dark ink.

H. F. Gordon.

INCOMES AND INCOME-TAX - CLASSIFICATION BY SIZE OF ASSESSABLE INCOME.

CLASS I - INDIVIDUALS.

Size of Assessable Income		Number of Returns.			
£	£	1934-35	1935-36	1936-37	1937-38
Under 200	200	4,769	5,742	6,065	6,887
200 and under	300	66,648	74,520	79,995	95,331
300 "	400	23,687	26,077	30,713	42,811
400 "	500	9,842	10,708	12,130	15,610
500 "	600	5,176	5,530	6,431	8,059
600 "	700	2,911	3,181	3,611	4,736
700 "	800	1,759	1,990	2,462	3,137
800 "	900	1,183	1,363	1,702	2,227
900 "	1,000	901	949	1,159	1,549
1,000 "	2,000	2,964	3,118	3,957	5,777
2,000 "	3,000	546	525	727	1,167
3,000 "	4,000	153	139	192	388
4,000 "	5,000	83	71	32	154
5,000 "	6,000	25	18	41	90
6,000 "	7,000	13	11	17	42
7,000 and over.		24	10	25	84
Totals		120,684	133,952	149,319	188,049

Assessable Income.

	£	£	£	£
Under 200	284,148	349,421	331,307	375,366
200 and under	16,185,695	18,203,858	19,786,930	23,907,893
300 "	8,061,567	8,876,244	10,424,246	14,530,400
400 "	4,352,889	4,732,178	5,368,073	6,881,530
500 "	2,805,775	2,997,570	3,486,545	4,373,889
600 "	1,876,126	2,046,863	2,324,898	3,046,563
700 "	1,306,890	1,481,876	1,834,358	2,337,779
800 "	997,342	1,152,081	1,437,444	1,885,337
900 "	852,283	897,867	1,096,185	1,467,066
1,000 "	3,946,034	4,182,344	5,283,891	7,744,511
2,000 "	1,309,878	1,243,256	1,732,353	2,808,214
3,000 "	524,512	477,300	665,881	1,327,668
4,000 "	366,935	310,728	413,304	683,588
5,000 "	134,243	75,321	223,601	490,785
6,000 "	82,612	71,276	109,405	275,684
7,000 and over	246,890	89,782	239,084	878,559
	43,333,819	47,207,965	54,757,505	73,014,832

GRAND TOTALS - ALL CLASSES.

Size of Assessable Income		Number of Returns			
		1934-35	1935-36	1936-37	1937-38
£	£	£	£	£	£
	200	7,331	8,437	8,947	10,010
200 and Under	300	67,003	74,958	80,471	95,943
300 "	400	24,016	26,426	31,071	43,301
400 "	500	10,047	10,952	12,457	15,929
500 "	600	5,348	5,765	6,665	8,329
600 "	700	3,038	3,341	3,802	4,944
700 "	800	1,838	2,118	2,607	3,346
800 "	900	1,268	1,466	1,831	2,386
900 "	1,000	985	1,026	1,279	1,697
1,000 "	2,000	3,382	3,623	4,587	6,609
2,000 "	3,000	707	709	982	1,521
3,000 "	4,000	251	275	355	568
4,000 "	5,000	137	137	171	298
5,000 "	6,000	65	61	92	176
6,000 "	7,000	26	35	63	96
7,000 "	8,000	22	20	34	68
8,000 "	9,000	19	19	28	39
9,000 "	10,000	22	14	20	27
10,000 "	20,000	64	85	100	140
20,000 "	30,000	29	36	32	48
30,000 "	40,000	14	14	20	25
40,000 "	50,000	9	7	12	14
50,000 "	100,000	27	34	33	39
100,000 and over		14	15	18	25
Grand totals, all classes		125,862	139,378	155,874	195,578

Size of Assessable Income		Assessable Income			
		1934-35	1935-36	1936-37	1937-38
£	£	£	£	£	£
	Under 200	446,243	519,958	518,752	578,350
200 & under	300	16,272,274	18,310,091	19,902,897	24,056,502
300 "	400	8,173,806	8,995,585	10,546,516	14,697,407
400 "	500	4,444,173	4,841,173	5,513,292	7,024,519
500 "	600	2,899,828	3,125,151	3,613,341	4,519,356
600 "	700	1,956,924	2,150,260	2,448,797	3,180,989
700 "	800	1,366,511	1,577,058	1,942,531	2,494,170
800 "	900	1,069,659	1,239,291	1,546,125	2,019,657
900 "	1,000	931,647	971,103	1,210,357	1,607,400
1,000 "	2,000	4,524,317	4,891,040	6,179,302	8,902,582
2,000 "	3,000	1,704,495	1,692,889	2,359,061	3,670,147
3,000 "	4,000	859,033	941,638	1,226,227	1,948,852
4,000 "	5,000	607,052	600,980	767,895	1,331,623
5,000 "	6,000	352,397	330,655	466,787	862,225
6,000 "	7,000	169,734	149,164	256,651	504,747
7,000 "	8,000	162,042	159,986	235,712	331,062
8,000 "	9,000	209,233	133,336	192,883	254,552
9,000 "	10,000	930,450	1,167,554	1,372,718	1,944,085
10,000 "	20,000	719,507	877,305	822,773	1,159,741
20,000 "	30,000	479,935	481,563	675,707	839,326
30,000 "	40,000	398,557	309,793	557,257	619,767
40,000 "	50,000	1,806,371	2,327,914	2,318,817	2,756,858
50,000 "	100,000	2,543,508	3,474,171	3,962,109	5,842,337
100,000 and over		53,194,170	59,495,601	69,077,678	91,873,180

~~CACCIATI~~
~~2003-04~~