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**The Madras Agriculturists' Debt Relief Act
A Study**

THE MADRAS AGRICULTURISTS' RELIEF ACT--A STUDY

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PREFACE

In this Bulletin we have examined the main provisions of the Madras Agriculturists' Relief Act and their effects on the rural folk. We have surveyed the conditions of the agriculturists in a few villages in the South Arcot District soon after the passing of the Agriculturists' Relief Act. Our object was to find out how far this Act has been beneficial to the peasants. We do not claim this survey to be, by any means, exhaustive, but we hope that it will give one a fair indication of the working of the Act in the rural parts of the Presidency.

We have appended to the Bulletin statements, prepared from the data collected during the survey, to prove certain conclusions arrived at by us, the questionnaire used by us during the survey, the texts of the Madras Agriculturists' Relief Act, the Debt Conciliation Act, the Debtors' Protection Act and the Agriculturists' Loans Amendment Act of 1935 with the rules framed thereunder, the press communiques of the Government regarding the Madras Agriculturists' Relief Act and the Judgment of the Madras High Court, in the hope that they may be of use to the readers.

Annamalainagar,
March, 1939.

B. V. N.
P. V.

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INTRODUCTION

“Princes and Lords may flourish or may fade ;
A word can mar them as a word hath made ;
But a bold peasantry, their country's pride ;
When once destroyed can never be supplied ”.

—GOLDSMITH.

The central fact in Indian rural economy is the appalling poverty and the grinding need of the population ; and the extent of indebtedness is the index of the alarming condition to which poverty has reached. The average income of the agriculturist in Madras is estimated at Rs. 15 per head. It is not an exaggerated remark when the Royal Commission on Agriculture said “In India agriculture is, with most cultivators, with uneconomic holdings, more a mode of living than a business.” The observation of the Simon Commission made in 1929 is more true to-day than it was then. “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 countrymen content with things as they are. But the depth of poverty, the pervading presence of which cannot escape notice, is not so easily realized.” In spite of his inability to pursue agriculture as a profitable business, the agriculturist will not abandon his calling out of his own free will ; for the abandonment of the farm means the abandonment of the home. Forced to live a squalid life with his poor income, which has been made poorer by the severe depression in the prices of agricultural commodities, he is groaning under a heavy load of debt, which is staggering. No real progress is possible, no new policy of planned economy for the development of the country can be successfully launched, unless the agriculturist classes, the custodians of our national wealth, who form 80% of the population are relieved of their distress by removing the ever crushing burden of indebtedness and

by devising means to increase their income and consequently their purchasing power.

Mr. W. R. S. Sathyanathan, Special Officer, appointed by the Government of Madras to enquire into the question of rural indebtedness in the Presidency has made a modest estimate of the volume of debts at Rs. 200 crores. Debt per head of population is Rs. 42 and this has no relation to the income of the agriculturist which is only Rs. 15 per annum. Interest at 12% per annum calculated on the entire debt of the Presidency will amount to Rs. 24 crores a year, while the net agricultural income (after deducting from the gross income, the cost of cultivation and the land revenue) comes only to Rs. 40 crores. The agriculturist cannot be expected to pay the whole of the interest due annually and the accumulated interest swells the volume of indebtedness. The total landed assets of the Presidency are now only five times the debts. Hence the seriousness of the problem of indebtedness which deserves our first and foremost attention before any scheme of reconstruction. Before any remedy is prescribed to this chronic disease, the real causes of indebtedness must be analysed.

CAUSES OF INDEBTEDNESS

The root cause of the indebtedness of the Indian peasant is the insufficiency of his income which is the result of uneconomic holdings, lack of attention to improved methods of cultivation, manuring, irrigation or the introduction of seasonal crops, lack of marketing facilities, the high mortality and the low vitality of the Indian cattle and the frequent failure of crops due to bad seasons. The size of the average holding in Madras is ridiculously low compared with other countries.

	Average size of holdings.
Madras	.. 3 to 4 acres.
England and Wales	.. 62 "
Denmark	.. 40 "
Germany	.. 21.5 "
France	.. 20.5 "
Holland	.. 26 "
U. S. A.	.. 148 "

While the holding of the Madras peasant is uneconomic, the return from his land averages only from 2 to 5% in a normal year with average prices. But in India normal seasons are not very common. Mr. Darling reckons that a cycle of five years will give one good year, one bad year and three normal years. In a survey conducted recently in some of the villages of the Cuddalore Taluk, it has been found that in a large

number of families crop expenses have increased over the income from the land. When a ryot borrows, especially, in a bad season, he is not able to repay the debt and the debt gradually mounts up with the accumulated interest. In course of time a pro-note debt is converted into a mortgage debt and finally the creditor takes possession of most of the ryot's lands. The result is the Indian peasant is "born in debt, lives in debt, dies in debt and bequeaths debt". The effect of this burden of ancestral debts is inefficient production. The feeling that he will have to sow for others to reap damps the ardour even of the most enthusiastic. At present the small returns from land and ancestral debts are not causes and results but are of mutual causation.

Unproductive expenditure on marriages, social ceremonies, factions and litigations contributes to the rapid growth of the volume of debt. It is usual to exaggerate the expenses on marriages. Normally marriages and ceremonies come at long intervals in an individual's life. It is but natural that the miserable peasant should have some diversion. The percentage of this kind of debt compared with others is very low.

Lack of cheap credit facilities accentuated the pace of growth of the debt. In Madras secured debts usually carry 12% interest but the rate on unsecured loans is 18% to 24%. The Marwaris usually charge 18% to 50% simple or compound interest and penal interest at a higher rate. During the investigation in some of the villages in Cuddalore Taluk it has been found that the sowcars of Kurinjipadi who supplied the villagers with money, usually charged 6 pies for a rupee for a month or 37½% but 9 pies for a rupee for a month or 56¼% was not uncommon. It is only the usurious rates of money-lenders that have swelled the volume of debts. While Government taccavi loans and Co-operative Societies accounted for only 7% of the total debts, the money-lenders are responsible for 93% of the debts. It is no wonder, then, that agriculturists are so heavily indebted.

The growth of population has some effect on indebtedness. Madras now holds more people than Great Britain and between the years 1921-31 recorded a lead of 10·4% while Bengal and the U. P. registered only an increase of 7·3% and 6·7% respectively. The increase in population is outstripping the increase in the area of cultivation and this results in the dwindling of the area of holding per individual.

To a certain extent the incidence of land revenue influences indebtedness. This is true especially during the depression when there is a fall in prices and the value of money has increased. The half net theory of the Government according to one writer has become the 'all net theory.'

The following table showing the purposes for which debts were incurred in some of the villages of the Cuddalore Taluk will be useful and clear.*

Purpose of borrowing.	Rs.	Per cent.
Ancestral debts ..	10,155	53
Agricultural expenses ..	2,622	13·7
Trade ..	1,000	5·2
Domestic expenses ..	1,015	5·3
Marriages and social functions ..	1,505	7·9
Buying land ..	300	1·6
Other purposes including payment of land revenue which forms a big proportion ..	2,557	13·3
Total debt of 50 families ..	19,154	100

The money income of the agriculturists fell appreciably as a result of economic depression and this aggravated the burden of indebtedness on the poor ryot. It is a danger to society if the agriculturist, who is engaged in the noble profession of raising the foodstuffs for the nation, breaks down under an intolerable burden. The prosperity of the entire nation is dependent on the well-being of the agriculturist. Therefore, the need is great for scaling down this debt.

CONCILIATION OR COMPULSION.

If relief is to be given to the agriculturists by scaling down debts, is it by compulsion or by mutual agreement that debts are to be scaled down? It is said that arbitrary scaling down of debts by the State will lead to a great curtailment of credit and only if voluntary conciliation fails compulsion should be tried as a last resort. Though the effect of compulsory legislation in frightening away credit cannot be minimised, the economic depression itself has impeded credit. Such measures should be looked upon as an attempt to solve a deadlock and if they are successful they will not only be beneficial to the debtor but also to the creditor. The Premier believes that voluntary conciliation will be of no avail in our Presidency for the creditors will never come to terms with the debtors. Moreover, almost every agricultural country in the world has found it necessary during the depression to adopt some compulsory measure of this kind. So long as the people realise that these are only emergency devices they are more likely to do good than harm. In Madras passive attempts were made to redeem the agriculturist by passing in his favour several legislative

* Figures were collected from the survey conducted by Dr. B. V. Narayana-swamy Naidu and P. Vaidyanathan.

measures such as the Land Improvement and the Agriculturists Loans Acts, the Co-operative Societies Acts, the Land Mortgage Bank Act, the Insolvency Act, the Debtors' Protection Act, the Usurious Loans Act, the Agriculturists Loans Amendment Act of 1935 and the Debt Conciliation Act of 1936. But these measures did not touch even the fringe of the problem. There is a general complaint that the Debt Conciliation Act was not given a fair trial. Mr. Ramalingam Chettiar rightly replied to this criticism. "Debt conciliation on the basis proposed in the Act is very complicated and relief can be given only in those cases where an application is made by a creditor or debtor. If a large number of applications come in the agency will break down." As conciliation and other voluntary methods have failed the adoption of the principle of compulsion has become inevitable.

LEGISLATION IN FOREIGN COUNTRIES AND IN INDIA

A study of the various attempts made to solve the problem of indebtedness of the rural population in other countries and in our own will be necessary and useful for a proper perspective of the relief measure in Madras. It has been contended that "the nature of the debt of the South Indian peasant and the conditions of South Indian rural economy are very different from those of the Western Countries" and the time and circumstances under which those measures were adopted also differ from ours. Though much of the debt of the central European farmers was contracted for the re-construction of farms devastated by the war, one cannot be blind to the enormous suffering of the agriculturists due to the catastrophic fall in agricultural prices after the depression, the heavy interest charges and the increased cost of production which was the result of improvements in farming effected at a time when market conditions were favourable. The result was the farmer was working on a deficit economy. In Greece, the average income per family was 19,398 drachmas and the average expenditure considered to be indispensable 25,055 drachmas. The condition was similar in most of the European countries. In India poverty and not improvement of agriculture has been the chief cause of indebtedness and the agriculturist was paralysed by the economic depression. But whatever may be the general or specific causes of indebtedness it is a well known fact that excessive indebtedness is a common evil. It is injurious at the same time to debtors and creditors and its effects are felt by the whole community. So a study of the measures adopted to eradicate this evil in foreign countries will be of use.

The different measures adopted in foreign countries may be divided into three categories. Certain countries of Central and Eastern Europe adopted radical measures which aimed directly at relieving the farmers

from debts. These measures partook of the nature of compulsory conversion of farmers' debts, reduction of the rate of interest and in certain cases the principal by the imposition of law. The second type of legislation pursued a policy of direct intervention but confined itself to narrower limits. This type of legislation is characterised by the repayment of loans by instalments over a series of years, the suspension of the measures of distraint against debtors, repayment by the State of part of the debts and the imposition of minimum prices for the sale of expropriated property. The last type of measures seeks to help the debtors through indirect means by the provision of cheap credit facilities and through measures adopted with a view to raising the prices of principal crops and improving agriculture.

In Germany as a result of the crisis numerous legislative measures were rendered necessary between 1931-32. The floating debts of the needy farmers were replaced by a special loan granted by the Bank for German Industrial Securities. The funds were drawn from the levies imposed on the industries while the Reich guaranteed 25% of the loan granted. Orders were also issued offering protection against distraint by creditors. Where voluntary agreement failed, creditors and debtors were subject to legal process which remitted arrears of interest, reduced interest for the future and even made possible compulsory reduction of principal by 50%. In addition to these and some other measures of the National Socialist Government, there was a proposal for raising to a remunerative level, the prices of agricultural products which, in part, had remained appreciably below the cost of production.

In Italy by a law of 1930 extinction of onerous agricultural debt is facilitated by a conversion of short term loans into long term loans payable in 25 years. The State undertook to pay a part of the instalments. Where there are scientific improvements in farming the Minister can grant contributions not exceeding 3½% interest repayable in twenty-five years. Mortgage credit institutions were called upon to replace bonds bearing more than 4% interest by bonds bearing interest at 4%.

In Switzerland the Government found it necessary to develop a Peasants' Aid Bank, which, would give help to the distressed farmers in the form of loans with or without interest and subsidies towards interest; to develop protective measures of a legal nature taken in favour of distressed farmers by the suspension of the repayment of capital, reduction of the rate of interest on secured loans, reduction or suppression of interest on capital sums not secured and extinction of interest due in certain cases; and to prevent new indebtedness by a bill aimed at reducing mortgage debts to a tolerable amount, i.e., to enable the far-

mer to have a subsistence income for him and his family. In the adjustment of debt proceedings the debtor, creditor and the community would collaborate. While the community would subscribe a certain amount for some years to a fund, the creditor would renounce a part of his credit. The creditor would be bought out by a redemption bond. The Federal Council would have control over the farms and would limit indebtedness in future.

Measures adopted in Denmark, Norway and Sweden were more or less similar to those in Switzerland. But in Finland short term loans were converted into long term loans and the land mortgage bank was reorganized. The State not only guaranteed the bonds but subsidised them. Loans were granted up to 90% of the value of the farm. If the farm was forcibly sold in auction it was bought by the bank and restored to the original owner in case he was found fit to assume responsibility. The French legislation was characterised by postponement of repayment to the various classes of debtors.

By a law of 1934 debts of the agriculturists of Bulgaria could be reduced by 40%. The difference resulting from the reduction of debts would be made up out of an amortization fund formed at the Public Debt Office to which the State would assign the proceeds of the tax on vocations and the supplementary tax on total income. The limit of exemption of property for distraint of debts was increased. Some other features of the Bulgarian legislation are spreading of the instalments of repayment over longer periods, postponement of repayment from 2 to 15 years and reduction of the rate of interest. Greece declared a moratorium for agricultural debts in 1930 and followed up to a large measure the legislation in Bulgaria.

Certain debtors in Hungary who got their debts inscribed in the land register of their country were protected from the sale of their property for three months. The State contributed a sum towards the payment of interest on debts of those persons. The legal rate of interest was fixed at 5½%. An amortization fund was set up for the reduction of debts of certain farmers.

Arrears due to the treasury and other public bodies in Poland were reduced in 1932 on condition of the payment of current taxes within a certain period. Long term debts to credit institutions were converted and were repayable in 55 years at a reduced rate of 4½%. Long term debts due to private individuals need not be repaid for a certain period and the rate of interest was also reduced. Short term debts both to credit institutions and private individuals were converted. In the matter of repayment of instalments and in the reduction of the rate of

interest, greater concession was always shown to small land-holders than to big land-holders.

While Roumania and Czechoslovakia followed up the main principles of the Swiss legislation in the reduction of capital and interest, they supplemented those measures with a policy for the reorganization of production at a cost that would leave a margin of profit to the agriculturists. For then only could reduced debt be paid back in future. In Roumania agricultural centres were established and furnished with modern technical equipment for every branch of production with a view to increasing the yield of land. The course of foreign commerce was regulated to find extended markets for Roumanian agricultural products and to increase the price of cereals. Czechoslovakia prevented speculation in the commodity exchanges of grain by fixing the price of cereals.

Legislation pertaining to moratorium and amendment of civil laws to prevent sale of lands of debtors by auction are characteristic of the measures adopted in Yugoslavia and Latvia. In these two countries and in Estonia and Lithuania provision was made for the conversion of short term loans to individuals, co-operative societies and private banks into long term loans. Land Mortgage Banks in certain cases and State Agricultural Banks in others were established to take over these reduced debts of farmers. Rate of interest on mortgage loans was reduced considerably.

Only voluntary conciliatory methods in the reduction of debts were adopted in Japan. Associations were formed for that purpose in villages. Passive conciliatory machinery was established in Canada by a law of 1934 to enable farmers, over burdened with debts but not desperate, to remain on their farms. Farm Loan Laws were amended to increase the total amounts that could be lent by the Dominion Farm Loan Board and to raise the sum that could be advanced to any borrower from 50% of the value of security to 60%.

The agricultural credit policy of the U.S.A. was entrusted to the Farm Credit Administration, whose aim was to create a system of completely unified credit institutions on a permanent basis, to supply farmers and their organizations credit at the lowest cost and to facilitate the adjustment of the heavy burden of mortgage debts by emergency financing and reduction of the rates of interest. Debt Adjustment Courts would go into each case to decide the deserving farmers. To enable the farmers to make voluntary arrangements with their creditors the Credit Act allowed a flotation loan the proceeds of which could be utilised for the purpose.

It must be noted that when drastic measures are adopted in most countries it is only to give adequate relief to small holders. Ordinary law and the conciliatory machinery give relief to big landowners. Measures which are popular are those which respect contractual obligations. Where radical measures are adopted credit unduly contracts and public opinion strongly reacts rendering necessary the adoption of new measures to calm the people. But in spite of popular agitation various countries have adopted radical measures because they must have found out the futility of conciliation and mediation in the case of small holders.

In the Indian Provinces excluding Madras much attention is being paid to the question of tenancy legislation. In Bihar, Orissa, the United Provinces and Bombay bills are introduced in the legislatures to relieve the tenants from the oppression of Zemindars chiefly for arrears of rent and debts and to enforce their occupancy rights on lands. Regulation of money lending has been attempted with full or partial success in the Punjab, Bombay, Bengal, Orissa and some other Provinces. Debt conciliation boards have been formed in the Central Provinces, Bengal and Bombay. Acts to prevent land alienation were passed in other provinces.

In the Bhavanagar State a Commission was appointed to assess the causes of indebtedness and the volume. On the basis of its report the Durbar, by a debt redemption scheme, sought to liquidate the past debts of agriculturists by advancing loans to each individual ryot at easy rates of interest. The awards of the Debt Liquidation Committee are binding on the sowcars and the ryots. It is interesting to note that while the nominal indebtedness in the sowcar's books was Rs. 86,38,874, the amount that was actually paid in composition was Rs. 20,59,473. The reason for this successful liquidation is the immediate cash payment by the State to the sowcars. For the liquidation scheme to be effective and permanent, the system of village panchayats was introduced by which the villagers took on themselves the management of their own affairs and were made responsible for the development of the economic welfare of the ryot. In Hyderabad the Land Alienation Act has been made more stringent ; and registration of moneylenders was enforced to prevent usury. Debt conciliation boards established for the benefit of a certain class of agriculturists were based on voluntary effort with a small element of coercion for effective working. Further there are proposals to start land mortgage banks and to provide the bankrupt debtors with a rural insolvency Act.

In no Province or State compulsory methods are adopted to scale down debts. Where voluntary methods have failed the State must

intervene and compel the creditors to renounce a portion of their claims. The Madras Agriculturists' Relief Act is unique in this respect.

FROM THE MORATORIUM TO THE DEBT RELIEF ACT

The first measure of the Congress Government was a Moratorium Bill passed in the middle of September, 1937. The Bill was intended to give temporary relief to indebted agriculturists till comprehensive measures were formulated for dealing with indebtedness. Both the period of the Moratorium and its applicability were restricted. The Bill laid down that for a year no suits or proceedings could be instituted against agriculturists whose liabilities under the heads of land revenue, rent and taxes and liabilities to local authorities did not exceed Rs. 400; who had saleable interests in lands; and who derived $\frac{3}{4}$ of their income from lands. Sums due to Provincial and Central Governments, to co-operative societies, joint stock banks and land mortgage banks were excluded from the operation of the Bill. It was made clear that agriculturists should not be entitled to transfer any immovable property so as to defeat the rights of their creditors.

Though substantial measures of relief were to follow the Moratorium there was great opposition to it. It was said that moratorium was a desperate remedy to which Governments resorted to when their banking systems were threatened with crash by a war or other serious calamity. But in the west such moratory legislation is common. In the Co-operative Conference a resolution was passed that the Moratorium Bill that was introduced in the legislature should be either ancillary to the Agriculturists' Relief Bill or be immediately followed by such a bill. In the latter case the interval should not be more than three months. But in Greece a moratorium for five years was declared and one year was not too long a period. It was contended that the definition of agriculturists worked great hardship in the case of certain deserving agriculturists, whose income from land was not $\frac{3}{4}$ of their total income. A fear was expressed that there would be a shrinkage of credit for seasonal agricultural operations. But such complaints were always made against all radical measures.

Great agitation against the Moratorium forced the Government to drop the idea and to publish in the beginning of December, 1937 the Debt Relief Bill. This Bill is simple and quite different from the Debt Relief Act that has actually come to stay on the statute book.

The object of the Bill is to rehabilitate agriculture, the basic industry of the Province, by relieving the producers of food from the incubus of indebtedness. The main principle of the Bill is that all arrears of

interest outstanding on the 1st October, 1937, shall automatically stand cancelled, in the case of all debts incurred by the classes of debtors defined as agriculturists. Where simple interest has been charged at more than 9% or compound interest charged or provision made for penal interest, the debt shall be deemed to be discharged in full if the total sum paid to the creditor, whether for interest or principal, amounts to twice the amount of the principal of the loan. If the amount paid till 1st October, 1937, falls short of twice the principal, such amount as will make up this shortage or the principal amount alone, whichever is less, will be paid to the creditor.

For the purposes of the Bill an agriculturist is one who has a saleable interest in land under the ryotwari or other tenures or a lessee of such lands. The Moratorium Bill did not include the lessees within the scope of agriculturists. Unlike the Moratorium Bill no upper limit of income from land is fixed in this Bill to qualify an agriculturist for the benefits conferred on him by this measure, though such limits are fixed for landholders under the Estates' Land Act and the Malabar Tenancy Act. Those who pay income-tax or profession tax of more than a rupee a year or property or house tax exceeding Rs. 600 a year are excluded from the operations of the Bill. These provisions are intended to ensure that persons following occupations other than agriculture do not benefit by the Bill. The Bill exempts the debts due to Governments, Local Bodies, Co-operative Societies and Joint Stock Banks with a membership of more than 500 share-holders. The rate of interest on all future loans is 6%.

Arrears of rent payable in areas under the Estates' Land Act and the Malabar Tenancy Act except arrears of the last two faslis shall be wiped out according to the Bill. But the tenant must pay within 15 months of the passing of the Act arrears of the last two faslis in full. Otherwise the old arrears will be deemed to be discharged only proportionately to the extent rents are discharged for faslis 1346 and 1347.

The provisions of the Bill can be applied to decreed debts. Where a decree is in execution it can be stayed till it is again amended. Sales of movable or immovable property of the agriculturists can be set aside if such sales are made in execution of a decree after 1st October, 1937. The amount in excess of the scaled down amount received by the decree-holder as a result of the sale shall be refunded to the debtor.

The Bill was referred to a Select Committee on the 21st of December. The most fundamental changes made in the Bill by the Select Committee are those regarding interest clauses. The Committee has made a distinction between the pre-depression period and the post depression period i.e., debts incurred before 1st October 1932 when the

value of money was less than now and those incurred after that date when the value of money appreciated owing to a fall in prices. The provisions regarding the wiping out of interest were retained in the case of pre-depression debts, while for debts incurred between 1st October, 1932, to 1st October 1937, the rate of interest was fixed at 5%. Where a debt after 1st October, 1932 was found to be a renewal of a debt incurred prior to that date, the debt or any part of it renewed will be dealt with as a debt incurred prior to 1932. Thus the principle of *damdupat* has been retained for pre-depression debts.

The payment of the rent for fasli 1347 before 30th September, 1938, was made a condition precedent to the grant of relief to a tenant from arrears of old rent. The rent for fasli 1346 must be paid before 30th September, 1939, if the tenants want a full discharge in respect of all arrears of rent accrued for previous years.

Minor changes have been effected in the definition of agriculturists. Women who own no property but who have lent out sums less than Rs. 3,000 are exempt from the Bill. Personal belongings of a woman, viz., jewels and household furniture should not be taken into consideration when computing the value of the property. Wages due to agricultural and rural labourers were exempted. A mortgagee in possession of the property mortgaged not taking any interest is exempted from the Bill.

For the sake of easy calculation the Committee has changed the rate of interest from 6% to 6¼% or 1 pie for a rupee for a month.

Before the Bill was passed into an Act the Government made certain amendments in the Bill and this has resulted in two important changes in the Bill. Whereonce creditor companies with 500 shareholders and more were exempted, this concession was now limited to scheduled banks of the Reserve Bank provided the interest charged by them was within 9%. In the case of post depression debts past payments in excess of 5% shall be appropriated only to arrears of interest while formerly reduction of principal also was possible.

THE UPPER LIMIT

The main object of the Act is to rehabilitate agriculture the basic industry of the Province and not so much to give relief to individual agriculturists. It is true that the land is the source from which the food for the people and the raw materials for the factories are produced. It is argued that as the prosperity of other sections of the people is dependent upon the agriculturist and his land, agriculture as an occupation is sought to be relieved from indebtedness. The Premier has often said that it was intended to relieve the industry of agriculture by relieving

the burden on land. The burden is actually felt by the man and some ryots feel the burden while others do not. By the occupation test relief will be distributed indiscriminately to both big and small land-holders, to those who need relief and those who do not. A study of foreign legislation will reveal that radical measures were adopted only to save the small holders while the big owners of land availed themselves of the voluntary agreements and other ordinary laws of the land. Even from the occupational test, which pays more attention to the impersonal than to the personal aspects involved, the denial of relief to Jenmies, Zamindars and Inamdars who pay above a certain sum to the Government is not based on correct principles of economics. From this standpoint there is no case for excluding produce-sharing tenants and labourers. In the Tanjore district and other southern parts of the Presidency there are a large number of absentee landlords who lease out their lands and spend their time in the town. While this class of landowners is relieved there is no justification for excluding Zemindars and Inamdars. To avoid this anomaly an upper limit is essential.

Where are we to draw the line between the big and small land-owners? An investigation by Mr. Sathiyathan into 564 families throughout the Presidency has given the following results.

	No. of families.	Extent of holdings & lands taken on lease.	Assessment paid.		Total debt.	Debt per head.	Debt per Re. of Assessment.	Debt per Acre.	Debt per family.
			Acs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Farm labourers owning no lands and paying no assessment or rent ..	23	..	..	..	1,739	15	..	..	76
Registered landholders and tenants paying land revenue or rent of Re. 1 to Rs. 100 ..	306	4,483-03	11,143-8	3,23,438	211	72	29	1,057	
Registered landholders and tenants paying land revenue or rent of Rs. 100 and above ..	235	24,738-0	1,35,453-4	10,79,186	918	44	8	4,592	

Similar results have been arrived at by an investigation conducted by us in some of the villages of the Cuddalore Taluk. Figures given below are only for 50 families in two hamlets of Ellayappenpettai, Cuddalore Taluk.*

	No. of families.	No. of members.	Assessment.	Holdings.	Total debt.	Debt per family.	Debt per head.	Debt per Ac.	Debt per Re.
			Rs.	Ac.	Rs.	Rs.	Rs.	Rs.	Rs.
1. Farm labourers owning no lands ..	9	62	..	..	932	103-9	15	..	..
2. Registered landholders paying a land revenue between Re. 1 to Rs. 100 ..	38	223	473	170	16,322	430-0	73	96	35
3. Registered holders paying land revenue above Rs. 100. ..	3	20	395	99½	1,900	633-0	95	19	5

The burden of debt should not be determined by the amount borrowed alone; for a man with a larger amount of debt may not feel the burden so much as a man with a smaller amount. For the one may be rich while the other poor. The burden of debt is, therefore, to be judged by a comparison of indebtedness to assets. Judged from this standard both Mr. Sathyanathan's figures and the figures collected in our survey lead us to the same conclusion that the hardest hit are the small and medium land-holders paying a land revenue between Re. 1 to Rs. 100. While debt per acre and per rupee of assessment of this class according to our survey is Rs. 96 and Rs. 35 respectively, for those paying a land revenue of Rs. 100 and above the corresponding figures are only Rs. 19 and Rs. 5. But if we take into consideration debt per head they give a false idea of the position. In fact the position is reversed. Debt per head for those paying a land revenue of above Rs. 100 is 95, while for those who pay land revenue between Re. 1 to Rs. 100 it is Rs. 73. So the unwary are liable to be misled. A perusal of the table from Mr. Sathyanathan's report will convince one of the

* Figures calculated from the Survey in the Cuddalore Taluk conducted by Dr. B. V. Narayanaswamy Naidu and P. Vaidyanathan in June, 1938.

correctness of this conclusion. These small and medium land owning class (paying land revenue between Re. 1 and Rs. 100) who form the largest number of the rural population have settled on land and are the actual tillers of the soil. It is they who really feel the actual burden of indebtedness. It will not be an exaggeration if we call them the backbone of our agricultural industry. If they are freed the industry itself will get great relief. When it is said that relief should be given to this class of agriculturists, it does not mean that the big holders are not suffering. They too are badly hit though not so badly compared with the small-holders. Debt conciliation boards and land mortgage banks are the proper machinery through which they should get relief. The upper limit for this radical measure should be limited to those who pay an assessment of land revenue to Government not exceeding Rs. 100.

EXCLUSION OF LABOURERS

It is an imperative necessity that the debts of farm labourers should be scaled down. Though their position is not so grave apparently as can be seen from the tables given above, yet even the small debt per head cannot be repaid by them. A special provision for wiping off their debts supplementing such a measure by exempting movables, i.e., the materials used in husbandry in addition to dwelling house, livestock and the minimum produce for subsistence should be introduced. While there is a case for inclusion of arrears of rent in this Act, the debts of labourers might have also been included. The Premier has promised to introduce a separate measure for the purpose at the earliest opportunity.

SANCTITY OF CONTRACT

Too much emphasis has been placed on the sanctity of contract. It is said that any legislation that destroys this sense of sanctity of contract destroys the roots of social life. But it is an important fact that justice is the basis of contract and in the relation between debtors and creditors where an unconscionable rate is charged by the debtor the sacredness of the contract vanishes into thin air. The debtors and creditors have never been on equal terms and all the Governments of the World have in one way or other violated this principle. The various relief measures in many foreign countries are examples of the violation of the contracts. Even in India the rate of interest was always regulated and laws were passed to enable courts to reopen old transactions. The Deccan Relief Act in many ways transgressed this principle of contracts. The return from agriculture varies from 2 to 5%. To borrow for that industry at a rate ranging from 6% to 50% is very bad economy indeed. If violation

of the contract is unjust, the usurious rate of interest is criminal and suicidal. A revision of contract with every change in the volume of money is necessary. Even nations were obliged to violate contracts entered into when, owing to various economic causes, they were unable to respect such obligations. What is true of nations is true of individuals also. After all, men are responsible for these contracts and when these contracts threaten the economic position of the individuals, it is but right that these contracts should be abrogated. So there is a justification for the Debt Relief Act.

THE POST AND THE PRE-DEPRESSION DEBTS

Not only the most contentious but the most important clauses in the Act are clauses 8 and 9, which provide for the compulsory scaling down of debts and wiping out of arrears of interest. Before proceeding to discuss the provisions it is necessary to see what kind of debts compose the major portion of the indebtedness of the agriculturists. In discussing the causes of indebtedness it has been proved conclusively that ancestral debts form the highest percentage of the volume of debts compared with other debts. (Vide figures given from the survey of the villages in the Cuddalore Taluk Page 4). Statistics given below regarding the purpose of borrowing from three different sources will corroborate the truth that ancestral debts are the heaviest burden on the agriculturists and will also supplement the account given from an investigation in the Cuddalore Taluk.

TAMARAIPATTI VILLAGE—MADURA TALUK.¹

Debts classified according to purpose :	Rs.
Cultivation expenses ..	4,950
Purchase of bulls ..	7,010
Purchase of lands ..	8,825
Improvement to lands ..	1,100
Discharging prior debts ..	37,225
	<hr/>
Building new houses ..	11,100
Family expenses ..	11,810
Litigation expenses ..	1,000
Trade ..	2,000
Purchase of a motor car ..	2,500
Payment of kist or lease amount ..	1,110

1. The Madras Provincial Banking Enquiry Committee—Investigators' Report.

SIVAPURI AND GAVARAPET VILLAGES—CHIDAMBARAM TALUK.²

Purposes of borrowing :	Amount.	Percentage.
	Rs.	
Maintenance	.. 4,925	11·16
Purchase of lands	.. 9,900	22·43
Agricultural improvements	.. 2,960	6·71
Purchase of cattle	.. 460	1·04
Land revenue	.. 690	1·56
Liquidation of old debts	.. 10,450	23·68
Marriage and funeral	.. 3,705	8·04
Education	.. 2,700	6·12
Interest payments	.. 850	1·93
Medical	.. 169	0·39
Current interest due	.. 6,025	12·65
Miscellaneous	.. 1,295	2·93

Results from 141 selected villages in the Madras Presidency³—

Purposes of borrowing :	Amount.	Per cent.
Payment of prior debts	.. 44,85,400	25·1
Marriage and other ceremonies	.. 18,80,761	10·5
Land revenue	.. 5,84,173	3·3
Relief of distress	.. 10,88,377	6·1
Agricultural expenses	.. 17,37,457	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	.. 1,78,85,666	100

The following table prepared from Mr. Sathyanathan's Report gives an idea of the number of cases in which lands were sold or money was borrowed for different purposes. The figures are for the years 1930-34 taking two typical villages for each district of the Presidency except South Kanara and Malabar.

2. The Problem of Rural Indebtedness—Dr. B. V. Narayanaswamy Naidu and Mr. V. Venkataraman.

3. Report on Agricultural Indebtedness—W. R. S. Sathianathan.

Year.	Agricultural purposes.	Trade.	Kist.	Marriage expenses.	Discharging of old debts.	Other purposes.	Purposes not ascertainable.
1930 : Sales ..	72,705	21,413	5,424	24,743	10,67,453	1,38,475	2,35,274
Borrowings ..	66,575	46,802	2,656	33,042	8,25,425	1,60,630	1,20,169
1931 : Sales ..	22,741	5,314	1,380	10,109	13,84,426	70,306	2,09,252
Borrowings ..	31,406	66,182	1,577	17,934	8,85,695	85,592	80,659
1932 : Sales ..	43,941	16,046	5,091	11,966	15,29,892	92,063	1,95,002
Borrowings ..	46,831	38,798	1,115	32,988	7,64,965	96,878	2,02,530
1933 : Sales ..	46,290	17,662	8,803	11,940	13,54,389	61,546	1,94,726
Borrowings ..	29,064	27,231	3,049	24,492	6,40,839	1,32,634	69,166
1934 : Sales ..	33,218	11,473	3,539	22,805	1,15,235	72,816	1,79,168
Borrowings ..	70,664	27,934	975	27,667	6,36,660	75,099	55,483

The number of sales and the number of cases in which money was borrowed by mortgaging property or through promissory notes are disproportionately large in the discharging of old debts when compared with other purposes of borrowing. Extreme pains are taken to show that ancestral debts form the largest proportion ; for, then only there is a justification for clauses 8 and 9.

In the scaling down of debts the Act draws a line at 1st October, 1932 to divide pre-depression from post-depression debts. It is often asked what is the sanctity of the date 1st October, 1932 ? There is every justification for fixing that date as the dividing line. The following index numbers of wholesale prices in the Madras Presidency will clarify the point.*

Year.	Rice.	Groundnut.	Cotton.
1928-29 ..	100	100	100
1929-30 ..	90	85	85
1930-31 ..	72	55	62
1931-32 ..	60	63	56
1932-33 ..	56	59	57
1933-34 ..	48	59	58
1934-35 ..	56	57	63
1935-36 ..	59	58	62
1936-37 ..	56	62	60

The effect of the depression began to be felt in 1931. It reached its lowest point in 1934-35. As the effect of a pricefall is not immediately.

* Dr. P. J. Thomas, *Hindu*, January 28, 1938.

felt the year 1932 may safely be taken as the dividing line of pre-depression from post depression debts.

But the principle adopted in the scaling down of debts is the principle of 'damdupat' which says that when a creditor receives twice the amount of principal by way of principal or interest towards debts contracted before 1st October, 1932, the whole of the debt will be deemed to be discharged. Thus the principle of 'damdupat' which is intended to be applied in the case of usurious rates of interest is wrongly applied to slump in prices. If scaling down of debts is to be related to fall in prices alone a ratio between prices and debts should be established and on this basis debts should be scaled down. This has been the principle in some foreign countries. But in Madras it has been proved conclusively that ancestral debts with usurious rates of interest are the heaviest burden on the agriculturists. If this burden is to be removed the principle of 'damdupat' should be correctly applied.

The second class of debts—the post depression debts—are dealt with differently. In the case of these debts past payments in excess of 5% interest shall go to cover only arrears of interest and not principal though the Select Committee recommended that it should cover the principal also. Here again it is difficult to relate the reduction of interest to any principle. It has no relation either to changes in the price level or capacity to pay. Moreover, the rate of interest for all future debts is 6¼% and as prices are gently rising there is no justification for a lower rate of interest fixed for post-depression debts.

The scaling down of debts on the basis of slump in prices can be justified if the scaling down were to be followed by immediate discharge of the debts. But in the absence of any such facilities debtors will be put to great hardship. For creditors may wait for a rise in prices or they may press for immediate settlement of debts by taking over the lands of debtors. This can, to a certain extent, be mitigated if provisions are made to transfer lands to creditors at the pre-slump prices and to exempt a minimum holding in the case of agriculturists who cultivate their own lands.

But as there are many difficulties in the way of scaling down debts in relation to fall in prices, as conditions in Madras are favourable mainly for the application of the principle of 'damdupat', it will be right to revert to the principle of scaling down embodied in the original bill. It may be laid down that all debts contracted before 1st October, 1937, and which carry more than 5% interest simple or compound shall be scaled down on the basis of the principle of 'damdupat'. For all debts contracted after that date and for all future debts the rate of interest shall be

5% and not 6¼% as is laid down in the Act. The Government should have power to change the rate of interest whenever very bad seasons occur. The merit of this principle is that a large amount of old debts will be wiped out and the agriculturist will be very much relieved.

FUTURE INTEREST

The power of the Provincial Government to change the rate of interest from time to time is viewed with suspicion. It is feared that it would introduce an element of uncertainty in credit. The principle that a Central Bank or a Reserve Bank should regulate the bank rate and the rates of the money market is correct. The Government should not interfere in the regulation of such rates. But this principle can be applied in India only to organized credit institutions. The money-lenders in the villages who have no connection with the money market and who have no knowledge of the principle of the money market continue to charge usurious rates of interest. Their rates of interest are not affected either by the rate in the money market or by fall or rise in prices but only by the personal character of the man. Such usurious rates can be regulated only by executive fiat and the Act rightly allows the Government to fix the rate from time to time.

ARREARS OF RENT

These form the third class of debts that are scaled down by certain clauses in the Act. Relief that will be given to the tenant will not be immediate because the prompt payment of rent for fasli 1347 and 1346 before 30th September, 1939 is a condition for wiping out of arrears of previous faslis. It is curious that while the same principle for the prompt payment of scaled down debts is not adopted in the case of ryotwari landowners, such a principle is applied to the poor tenants on the ground that if arrears were wiped out unconditionally, current and future rents would not be easily realized. Moreover, this provision is not related either to fall in prices or capacity to pay. A recalcitrant tenant who can pay his old arrears will refuse to pay them when once he pays the dues for faslis 1346 and 1347 within the due date. A poor tenant who has not the capacity to pay the rent for the two faslis (1346 and 1347) is pressed hard for his old arrears. Thus great hardship is caused to poor tenants by this clause.

CO-OPERATIVE SOCIETIES AND JOINT STOCK BANKS.

The exclusion of the Co-operative Societies is a right move on the part of the Government. Co-operative Societies are associations of borrowers themselves and their object is the advancement of the members and not the earning of usurious rates of interest by exploiting the

borrowers. But in the case of credit by money lenders the interests of lender and borrower are in a manner opposed and the special interests of these men are the exploitation of borrowers for the sake of private gain. If only the Act had included the Co-operative Societies it would have defeated its own purpose. Moreover, the recent policy of the Co-operative Department is the introduction of controlled credit in the Societies in order to improve the repaying capacity of the agriculturists. The inclusion of these societies will result in a set back to agriculture. The Registrar of Co-operative Societies has already issued a circular to all co-operative institutions that in respect of D class societies no member shall be asked to pay more than double the principal originally borrowed by him; no member shall pay more than the principal plus interest calculated at $6\frac{1}{4}\%$ from the date of the disbursement of loan; and that 25% of the amount outstanding now may be remitted. Simple interest at $6\frac{1}{4}\%$ is charged on awards by arbitrators on outstanding loans. But the Registrar's proposals are not mandatory and some central banks and co-operative societies have not given effect to his suggestions. The matter can be set right if the Registrar or the Provincial or the Central Bank enforces these proposals on the societies.

While there was a great agitation for excluding joint stock banks with less than 500 share-holders from the Bill, the Government amendment limiting the exemption only to scheduled banks was a great shock to many banks and individuals. A large number of funds, nidhis and small banks are relegated to the same position as the private money-lenders are. In the finance needed to raise crops these institutions form an important link in the chain of rural credit. If institutional credit is to be preserved these institutions should be exempted. To prevent a few big money lenders forming themselves into joint stock banks a limit may be placed on the number of share-holders. But that limit should not be so high as 500. The provision that past payments in the case of post-depression debts will be appropriated only to interest, has to a certain extent mitigated the serious wrong done to these institutions.

SOME MINOR CRITICISMS.

A beneficial feature of the Act is that some women who live solely on a small amount within Rs. 3,000 lent out, are exempted from the provisions of the Act. Orphans and infirm men are in the same position as these women are and they should also be exempted. The Act does not touch usufructary mortgages. It is but just that when a person enjoys the property for twenty years for the sums he has lent out, the mortgagor should get back his property and the whole amount should be

deemed to have been discharged. In the tenancy legislation of some provinces provision is made more or less on the above lines for the discharging of arrears. The Zemindar will be in possession of the lands of the occupancy tenant for some years in lieu of the arrears of rent. After that period lands will be returned to the tenant and the arrears will be wiped out. No provision has been made to save the debtor from being sold up. As has been already pointed out a minimum holding should be exempted from being attached and a schedule of prices should be prepared at which alone lands could be sold. The Act has no provision to afford relief to the large number of insolvents. The present law of insolvency is so hopelessly complicated and expensive that few agriculturists can take advantage of it to avoid harassments. Provision should be made in the Act for a certain minimum of produce or lands for the subsistence of the insolvent debtor and his family.

A CONSTITUTIONAL POINT.

A question has been often raised whether the provincial legislatures, according to the Government of India Act, could legislate in the matter of business carried on by banks. While the regulation of money lending belongs to the provincial list of subjects, the regulation of banking comes under the sphere of the federal legislature. No doubt Government would have taken legal advice on this matter before proceeding to legislate. But recently a crop of cases has arisen in the various courts of the Presidency questioning the validity of the Debt Relief Act in the case of promissory notes, which are negotiable instruments. A subordinate judge of Kumbakonam in his judgment delivered on September 19th said "Considering the relevant sections of the Government of India Act 1935 together with the legislation in respect of promissory notes and bills of exchange, under the Negotiable Instruments Act, it seems to me clear that the promissory note is a subject matter which is outside the province of the legislative powers of the Provincial Legislature and therefore it is we do not find any mention of promissory notes or other documents representing notes while we find the word "debt" alone in the Act IV of 1938. The question is whether "debt" coming within that definition of the Act will cover a debt under a promissory note or any negotiable instruments and upon this point there can be no doubt that all debts affected by the provisions of Act IV of 1938 of the Madras Provincial Legislature cannot comprise the debts due under a promissory note or other negotiable instrument coming under the provisions of the Negotiable Instruments Act." If the Act is held not to apply to negotiable instruments the relief that could be granted to agriculturists becomes so small as to make the Act practically a dead

letter. Everything depends on the decision of the High Court, which is keenly awaited by many debtors and creditors.

FUTURE OF CREDIT.

The first effect of the Act will be a drastic curtailment of credit and the seasonal agricultural operations will suffer through the drying up of credit. During the survey of some of the villages in the Cuddalore Taluk, it has been found that a good number of agriculturists have left their lands fallow on account of their inability to get credit. Conversation with the village folk of Ellayappanpettai has revealed that the society in Kurinjipady under whose jurisdiction they came was very shy to lend them. The collection of kist became very difficult in the villages. A sowcar in Kurinjipady said that business became very slack after the Debt Relief Act. Even the sowcar thinks twice before he lends out. The Revenue Inspector of Kurinjipady received as many as 15 applications for taccavi loans during the course of 15 days in the month of May. This is a very uncommon feature ordinarily. An inspection of the taccavi loan ledger in the Chidambaram Taluk Office clarifies certain doubts.

Taccavi loans granted by the Revenue Department in the Chidambaram Taluk.

Fasli or year.	Applications received.	Number sanctioned.	Number rejected.
1344 (1934-35)	9	4	5
1345 (1935-36)	3	1	2
1346 (1936-37)	8	2	6
1347 (1937-38)	10	(Under consideration 1)	9
1348 (1938-39)	15	3	12
From 3-7-1938 to 20-9-1938.		(Under consideration)	

Chidambaram being a wet area, taccavi loans are not popular. In spite of it the number of applications received for only two months after the passing of the Debt Relief Act is nearly double the number of applications received in previous years. We are not concerned here with the rejection of the number of applications or the amount sanctioned. The large number of rejection may be attributed to the inherent defect of the Land Improvement and Agriculturists' Loans Act and the administrative difficulties felt by the subordinate officers. We are interested only to show that due to the shrinkage of credit supplied by money lenders there has been a rush even to the unpopular taccavi loans.

An inspection of the loan ledger of the Chidambaram Loan and Paddy Sales Society supplements this evidence—

Village Centres.	Amount of loans granted 1937 (January to December)			Amount of loans granted 1938 (Jan. to Novr.)		
	Rs.	A.	Ps.	Rs.	A.	Ps.
1. Kattumannarkoil	..	740	0 0	2,795	0 0	
2. Vlakam	..	3,330	0 0	7,620	0 0	
3. C. Sathamangalam	..	1,150	0 0	1,960	0 0	
4. Orathur	..	1,610	0 0	5,419	0 0	
5. Maduranthakanallur	..	3,599	0 0	6,077	0 0	
6. Maiyathur	..	1,895	0 0	2,802	0 0	
7. Naivasal	..	2,662	8 0	1,854	0 0	
8. Lakshmigudi	..	4,378	0 0	4,560	0 0	
9. Keelnedumbur	..	3,507	0 0	4,347	12 0	
10. M. Odayur	..	5,548	0 0	7,523	0 0	
11. Suravilandur	..	6,474	0 0	3,875	0 0	
Total	..	34,893	8 0	48,832	12 0	
11. New centres started in 1938				20,199	0 0	
Grand Total	..	34,893	8 0	69,031	12 0	

This feverish increase in the amount of loans advanced cannot be attributed merely to the expansion of the activities of the Society. If it had not been for the Debt Relief Act, the amount of loans advanced this year would not have doubled. From the figures derived from this Society it cannot be generalised that there is a great turnover of business in the Co-operative Societies. In fact, examination of some of the societies in the Cuddalore Taluk gives a contrary result.

Facts have proved that there is a shrinkage of credit supplied by money lenders. The question arises whether it is beneficial to the agriculturists. To a certain extent shrinkage of credit will do some good to the improvident agriculturists. But when the co-operative societies and other small banks restrict their credit, then the agriculturists will be at a loss to find money for the seasonal needs of agriculture. To that extent the repercussions of a shrinkage of credit are detrimental to agricultural production. So it is the duty of the Government to rectify the Co-operative movement and consolidate their position in order to enable them to meet the increased demands on their resources.

It is often said that the funds of money lenders would not be kept idle but would soon find an outlet. Those who are eager to invest will invest their funds in fixed capital in urban areas. Investment in banks, especially at a time when there are bank failures, will not be popular. Many illiterate ryot money lenders will begin to hoard or buy lands. When the investor becomes a burnt cat, it will take a long time for him to recoup and one cannot expect the money lender to lend easily to the agriculturists in the near future. In many cases the poor agriculturist who is in dire need of credit will conspire with the money lenders to evade the law. Investigation in some of the villages has brought to light cases where the professional money lenders execute pronotes with statutory rate of interest but pay the agriculturists only half the sum mentioned in the bonds. It is doubtful whether pawnbroking comes under the scope of the Act. A number of families have pledged their jewels with the sowcars of Kurinjipady for small sums which carry very high rates of interest.

REPAYMENT OF SCALED DOWN DEBTS.

One of the most sensible criticisms of the Act is that there is no provision to enable the agriculturist to repay his scaled down debts. While on the one hand the creditor who is adversely affected is not redressed by immediate payment of the scaled down debts, on the other, the debtor will be harassed by the infuriated creditor who will prefer claims in the Court against him. Naturally there will come to stay a large number of landless agriculturists as a result of the Act. A ryot of the Kottayancheri village of the Cuddalore Taluk said during the enquiry that the repayment of loans should be based on instalment basis as in the case of land mortgage banks and that the Revenue Department should take the responsibility of collecting the instalments regularly for the creditors as arrears of land revenue are collected. This method would avoid expenses that would be incurred otherwise if the creditor were to go to a Court of law. The Revenue Department is already saddled with too much work and cannot go into the affairs of private transactions. Another suggestion is the time limit of one year for the repayment of scaled down debts. After that period the civil Court on application by the debtor or creditor, shall decide that the debtor shall convey and the creditor shall accept in full satisfaction of the debt, such property as is equal in value to the debts due by him. The value of the property is to be decided on a proportion that is fixed in the case of lands to assessment, in the case of houses and buildings the net annual rental value taken for the assessment of property tax and in other cases the capitalised value of the net income from properties. Where

the assets of a debtor are less than his liabilities, the creditor shall accept only such proportion of the scaled down debts that the total assets of the debtor bear to his total liabilities. While this proposal is fine on paper, it does not give an opportunity to the debtor to pay his debts in instalments. The anxiety of the Government to preserve the land from passing on to non-agriculturists will be defeated by this proposal. A proposal is made that the Government should issue bonds to creditors in full settlement of the debts by the debtors and thus transfer the claim on debtors to itself. Debts will be collected in instalments over long periods when the land revenue falls due. But the difficulty is the entire responsibility of liquidating indebtedness falls on the Government. Huge amounts by way of interest should be paid to bondholders irrespective of the debtors paying the instalments. More than this, it will lead to a prolonged enquiry into each and every case before a settlement is made.

It is gratifying to note that Government is making attempts to organise debt conciliation boards throughout the length and breadth of this Presidency to give effect to the relief that is foreshadowed in the Debtors' Relief Act. It is necessary for the Government to issue a notification calling upon all debtors and creditors to file in a prescribed form their claim before the village munsiff of their villages within an appointed date. This will give an idea of the amount of conciliation work that is to be undertaken, the number of centres where they are to be started and the amount of loans the Government would have to supply to the small and medium holders. Suitable amendment should be made in the Debt Conciliation Act if necessary, or rules should be framed both under the Agriculturists' Relief Act and the Debt Conciliation Act to enable the latter to effectively undertake the spreading of relief that is thought of in the former.

The Government has provided a sum of Rs. 50 lakhs in the budget for the disbursement of loans to the small ryots in order to enable them to take full advantage of the provisions of the new Act. Moreover, the Government has increased the guarantee in respect of debentures issued by the Central Land Mortgage Bank to a total face value of Rs. 250 lakhs. This is exclusive of such debentures as the Bank from time to time may redeem. The debentures should be issued for periods not exceeding twenty five years bearing interest at 5% and less. It is hoped that this will give a scope for money lenders to invest their funds in these debentures. This increased guarantee goes a long way in providing funds to the big land-holders to pay off their scaled down debts. But the enormous delay in the grant of loans by land mortgage banks must be ended.

CURATIVE MEASURES.

Though the Act needs improvement in many ways it cannot be gainsaid that this measure is a bold one and unique in its character. No previous Government either in this Province or elsewhere in India has taken so serious a view of the indebtedness of the agriculturists and has been so earnest in bringing forward a measure of compulsory relief. But this Act by itself cannot bring about the economic rehabilitation of the agriculturists. Indebtedness is the result of poverty and in turn aggravates poverty. So the curative methods that are adopted should aim at rooting out poverty. Otherwise debts once wiped out may yet return.

Some of the causes of poverty of the Indian agriculturist are the low yielding capacity of the land, the steep fall in prices and the heavy incidence of land tax. Under adverse conditions due to fall in prices the half net theory of land tax has been violated. The frequent resort by Government to coercive processes for the recovery of its dues in recent years is an index of the growing distress of the people.

FASLI

* Coercive processes.	1342.	1343.	1344.	1345.
Demand notices ..	<u>1,174,528</u>	<u>1,499,500</u>	<u>1,527,296</u>	1,382,465
Distrain or attachment of notices ..	132,310	192,160	<u>135,479</u>	<u>125,473</u>
Sale notices ..	82,048	143,344	96,347	<u>94,826</u>
Sale (number of defaulters) ..	<u>11,244</u>	<u>14,655</u>	<u>13,414</u>	13,588

It must be noted that the actual sale on account of default is the index of the capacity of the ryot to pay land revenue to Government. The figures are highest for fasli 1343 when the depression reached the lowest depth. While fasli 1344 registered some recovery, the condition has worsened in fasli 1345.

It will be a great boon to the agriculturist if he is relieved of this tax burden to a certain extent. Committed to the programme of Prohibition, which if extended to the whole of the Presidency within three years will involve nearly 1/3 (4 crores) of the total revenue, Government cannot think of changing the system of land tax.

An improvement in the income of the agriculturist by raising the commodity prices as in Roumania and Czechoslovakia will prevent the recurring of indebtedness. A devaluation of the rupee will increase the income of the Indian agriculturist. But devaluation is beyond the competence of the Provincial Government and there is little chance of the Central Government supporting such a policy.

* Report of the Settlement of the Land Revenue in the Madras Presidency (Fasli 1345).

The only method possible for the Provincial Government to enable the agriculturist to get an increased income from land is by the improvement of the methods of agriculture and thereby increasing the productive capacity of the land. Better irrigation facilities should be provided to the agriculturist by devising new irrigation projects. Minor irrigation schemes throughout the Presidency should be carefully investigated and efforts made to conserve rain water by adding to the tanks and by improving and repairing them. Fragmentation and consolidation of holdings retard agricultural development to a great extent and land consolidation societies should be formed to undertake successfully the work of consolidation. Provision of subsidiary industries will go a long way in augmenting his income. The full results of an increase in agricultural production can be achieved only by proper marketing facilities.

The primary co-operative society must undertake the above schemes. But the rural society must be re-constructed and re-vitalised by a process of rectification and consolidation before it takes up this work of improvement. For some time it is necessary to invest the Government with the power of control and supervision over these societies. The society should be organised on a multi-purpose basis embracing the whole life of the village—i.e., not only credit, but methods to improve the yield of land, better marketing facilities and purchase of necessities. "Every avenue of waste should be checked and production should be developed". The system of controlled credit should be introduced in the society. Before a loan is granted by the society the supervising staff and the agricultural demonstrator should go round the area and ascertain the amount necessary for cultivation. The Society should grant the loan to the agriculturist at the proper time on a cash credit basis. The supervising staff should be careful that the instalments granted are utilised properly. The produce of the ryot should be sold through the sale section of the society. Loans for the improvement of land should be got from the land mortgage bank to which the rural society is affiliated. The sale section of the society will be responsible for repayment of the instalments both to the credit society and land mortgage bank. The society should aim at the controlled expenditure of its members through the recognised stores. This has a salutary effect of lessening the chances of loans being misapplied. An attempt has already been made in our Presidency to start a multi-purpose society on these lines. If the relief given to the agriculturists by the new Act is to be permanent, if debts once wiped out should not accumulate again, Government should encourage the formation of these multi-purpose societies, which will devise means to increase the income of the agriculturists and improve their life.

APPENDIX I

Questionnaire used by the Investigator for investigating the villages in the Kurinjipady Firka, Cuddalore Taluk.

A. GENERAL

1. Size of the family.
2. Name of the head of the family.
3. Caste.
4. How many are earners?—Males and females with their ages.

B. HOLDINGS

5. What is the extent of the lands—dry and wet—owned by the family—(i) In the village.
(ii) Outside the village.
6. Land revenue paid by the family to Government.
7. What is the number of fragmented holdings and the approximate longest and shortest distance from one sub-division to another?
8. What are the sources of irrigation? Are the lands situated near the tail of the 'ayacut'?
9. What is the approximate value of the holdings?—Give the present market rate.
10. How many acres are left fallow?
11. Number of acres leased out and the income from those lands.
12. Number of acres taken on lease and the income derived.

C. OCCUPATION

13. Is the means of living purely agriculture? Are persons of the family non-cultivating land-lords or cultivating owners or tenants or agricultural labourers? How many workers are there in the family?
14. If the Occupation is mixed—that is, only partly agricultural—what is the principal occupation and what is the subsidiary?
15. If non-agricultural what is the nature of occupation and the income derived?

D. COST OF CULTIVATION

16. How many acres are cultivated?—(wet and dry in acres).
17. How many workers are employed for the whole year?

18. Find the number of additional labourers for wet and dry acres separately and the expenses meted out for (1) Manuring (Is the manure bought wholly or partly ?) ; (2) Ploughing ; (3) Transplanting ; (4) Weeding ; (5) Reaping and threshing ; (6) Sowing and seeds ; (7) Cartage ; (8) Other purposes.

19. What are the various kinds of implements in use ?—Who made them ?—Give their cost, repair and depreciation value—

20. Number of cattle and livestock—Of what use are they to the family ? Are they maintained for agricultural purposes only ? Calculate the daily, monthly or yearly expenses on cattle.

21. Taxes other than land revenue paid by the family.

22. Any expenses not included above regarding the cultivation of crops.

E. INCOME

23. Yield from the land in kind and in money for the chief crop.

24. Value of straw.

25. Value of other grains and vegetables raised from the land.

26. Income from other sources.

27. Value of the houses, jewels, carts, oil engines, looms, etc.

F. INDEBTEDNESS

28. (a) What is the area mortgaged ?—Is the mortgage with or without possession ? (b) What is the date of the mortgage ? Trace the history of the mortgage—What is the principal ?—What is the rate of interest ?—What is the amount of interest in arrears ?

29. Pronotes and bonds—What is the principal ?—What is the rate of interest on pronotes ?—What is the duration of the loan and the amount outstanding ?—What is the amount of interest in arrears ?

30. Other kinds of loans—Pledge, crop loans or hand loans.

31. Sources of credit—

a. Taccavi loans—What is the amount borrowed ?—Duration of the loan—What is the rate of interest ?—How many instalments have been paid ? Are Taccavi loans popular ? For what purpose was the loan incurred ? Are Taccavi loans easy to get ?

b. Co-operative Societies—What is the amount borrowed ?—What is the duration of the loan ? Was the loan granted on personal

security or on movable or immovable property ? How many instalments have been paid ? What is the overdue principal and interest ? What is the rate of interest ? State the purpose for which loans were taken.

c. Land Mortgage Banks—What is the nature of the security ? What is the amount and period of loan granted by the land mortgage bank ? What is the rate per cent ? How many instalments have been paid ? For what purpose money was borrowed ? Do many resort to loans from the land mortgage banks ? What are the difficulties in getting loans ?

d. Moneylenders—Are they ryots or professional moneylenders or saukhars ? What is the amount borrowed from the moneylenders ? What is the rate per cent ? How many instalments have been paid ? Is there any outstanding ? Are there any arrears of interest ? What is the effect of the Debt Relief Act on moneylenders ? If there is a shrinkage of credit will the moneylenders withhold for a long time ? How is the money obtained for paying kist and for meeting agricultural expenses ? What is the amount of the scaled down debt ? Is the Act popular ?

32. What are the purposes for which debts were contracted ? State roughly the amounts in each case.

33. Remarks, if any, of the investigator regarding credit facilities.

34. Marketing—Where is the produce sold ? Does the broker go to the village ? Is there any help from the Co-operative Sale Society ? What are the difficulties in the marketing of the goods ? What is the opinion of the ryots in the matter of weights and measures ?

35. Savings Institutions—How are savings invested ? Are co-operative societies popular ?

36. What is the estimated total amount of income of the family ?

37. What is the estimated total expenditure ?

38. What is the total debt ?

39. State the approximate total value of property.

G. STANDARD OF LIVING.

40.

Standard of living. For the poor and lower middle classes calculate the daily or weekly expenses, for the rich monthly or yearly expenses.

Commodities and Services.	Quantity consumed.			Cost.	
	Daily.	Weekly.	Monthly.	Annually.	Rs. A. P.
1. Rice or Paddy.					
2. Ragi, Cumbu and Varagu.					
3. Dhall.					
4. Spices.					
5. Sugar and Jaggery.					
6. Oil and Ghee.					
7. Milk.					
8. Eggs, Fish and Mutton.					
9. Vegetables.					
10. Coffee and Tea.					
11. Betel and Nut.					
12. Cigarettes and Beedies.					
13. Drinks and Drugs.					
14. Fuel—bought or collected.					
15. Kerosine.					
16. Clothing (Annual expense).					
17. House rent or repairs (Annual).					
18. Dhoby, barber and other servants (Annual).					
19. Medicine.					
20. Education.					
21. Amusements, pilgrimages, feasts and festivals.					

How many meals are taken daily and what is the menu usually?

41. General remarks of the investigator.

APPENDIX II

TABLES RELATING TO INDEBTEDNESS OF THE FAMILIES IN THE VILLAGES AND THE PURPOSES OF BORROWING.

TABLE I.

Statement showing the indebtedness of 113 families in the village of Ellayappenpattai (comprising of the hamlets of Nellikupam, Minakshipet, Ellayappanpattai and Vazhapalam), Cuddalore Taluk.

	No. of families.	No. of members.	Assessment.			Holdings.	Total debt.			Debt per family.			Debt per head.			Debt per acre.			Debt per Re. of assessment.		
			Rs.	A.	P.		Acs.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.
1. Labourers ..	30	157	..	..	..	..	2,994	0	0	99	12	10	19	1	1	..	..	..	..	..	..
2. Registered land-holders paying land revenue between Re. 1 to Rs. 100 ..	76	435	1,088	8	0	396	38,029	0	0	500	6	1	87	6	9	96	0	6	34	15	0
3. Registered land-holders paying land revenue above Rs. 100 ..	7	53	1,445	0	0	419	6,140	0	0	877	2	3	115	13	9	14	10	6	4	3	11

TABLE II.

Statement showing the indebtedness of 25 families in the Kottavancheri Village, Cuddalore Taluk.

	No. of families.	No. of members.	Assessment		Holdings.	Total debt.		Debt per family.		Debt per head.		Debt per acre.		Debt per Re. of assessment.	
			Rs.	A. P.		Rs.	A. P.	Rs.	A. P.	Rs.	A. P.	Rs.	A. P.	Rs.	A. P.
1. Labourers ..	5	19	..	..	..	350	0 0	70	0 0	18	7 1	..	..	..	..
2. Registered land-holders paying land revenue between Re. 1 to Rs. 100 ..	16	96	562	12 0	106½	10,306	0 0	644	2 0	107	5 8	97	0 0	18	5 0
3. Registered land-holders paying land revenue above Rs. 100 ..	4	38	1,050	0 0	190	9,590	0 0	2,397	8 0	252	5 11	50	7 7	9	2 2

TABLE III.

Statement showing the indebtedness of 150 families in the villages of Ellayappanpattai, Kottavancheri, Elavarasampattu, Kurinjipady, Permatur, Kannady, Bhudhambhadi and Andikuppam, Cuddalore Taluk.

	No. of families.	No. of members.	Assessment			Holdings.			Total debt.			Debt per family.			Debt per head.			Debt per acre.			Debt per Re. of assessment.		
			Rs.	A.	P.	Acres.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.	Rs.	A.	P.		
1. Labourers	37	183	..	..	..	3,452	0	0	93	4	9	18	13	10	..	..	..	..	..	..	..	..
2. Registered land-holders paying land revenue between Re. 1 to Rs. 100	100	561	1,708	4	0	526¾	50,886	0	0	508	13	9	90	11	4	96	9	8	29	12	7	..	
3. Registered land-holders paying land revenue above Rs. 100	13	110	2,726	0	0	688	20,505	0	0	1,577	4	11	186	6	7	29	8	3	7	8	4	..	

TABLE IV.

Statement showing purposes for which debts were incurred in 113 families in the village of Ellayappanpattai, Cuddalore Taluk.

Purpose of borrowing.	Rs.	Per cent.
Ancestral debts	21,770	46.6
Agricultural expenses	5,517	11.8
Buying land	1,250	2.7
Domestic expenses	3,665	7.8
Marriages and social functions	4,530	9.7
Trade	3,312	7.1
Other purposes including payment of land revenue	6,679	14.3
Total	46,723	100

TABLE V.

Statement showing purposes for which debts were incurred in 25 families in the village of Kottavancheri, Cuddalore Taluk.

Purpose of borrowing.	Rs.	Per cent.
Ancestral debts	9,590	47.4
Agricultural expenses	1,290	6.4
Buying land	2,980	14.7
Domestic expenses	200	1
Ceremonies	3,000	14.8
Trade	..	..
Other purposes including payment of land revenue	3,186	15.7
Total	20,246	100

TABLE VI.

Statement showing purposes for which debts were incurred in 150 families in the villages of Ellayappanpattai, Kottavancheri, Eiavarasampattu, Kannady, Peramathur, Bhudhambhady, Kurinjipady and Andikuppam, Cuddalore Taluk.

Purpose of borrowing.	Rs.	Per cent.
Ancestral debts	35,381	47.6
Agricultural expenses	7,042	9.5
Buying land	5,230	7.0
Domestic expenses	4,215	5.7
Marriages and social functions	8,990	12.0
Trade	3,312	4.4
Other purposes including payment of land revenue	10,233	13.8
Total	74,403	100

APPENDIX III

PRESS COMMUNIQVES ON THE MADRAS AGRICULTURISTS' RELIEF ACT AND ITS WORKING.

1. *Fort St. George, May 3, 1938*

No. 425.—

A doubt has been expressed whether panchayat courts are bound to scale down the debts of 'agriculturists' in accordance with the provisions of the Madras Agriculturists' Relief Act, 1938. The Government desire to make it clear that the provisions of the Act must be applied by *all courts* in the Province, including village courts appointed or established under the Madras Village Courts Act, 1888.

2. *Fort St. George, May 6, 1938*

No. 427.—

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 Communique 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 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.

* According to the Fort St. George Gazette of November 29th, 1938 there were 59 Debt Conciliation Boards. Now there are 92 boards.

3. *Fort St. George, June 9, 1938*

No. 499.—

According to sub-section (1) of section 15 of the Madras Agriculturists' Relief Act, 1938, all arrears of rent due to land-holders or under tenure 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 the following conditions, viz;

(1) That the rent for fasli 1347 is paid on or before the 30th September 1938; and

(2) That the rent for fasli 1346 is paid on or before the 30th September 1939.

Where only a portion of the rent for fasli 1346 has been paid before the 30th September 1939, the rent for fasli 1347 having been paid before the 30th September 1938, the arrears for fasli 1345 and earlier faslis 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 faslis.

A doubt has been raised whether the above provision has the effect of postponing the dates of payment of rent by a tenant to 30th September 1938 in the case of rent for fasli 1347 and to 30th September 1939 in the case of rent for fasli 1346, and of preventing the landholder from proceeding against the tenant before these respective dates. The Government desire to make it clear that it has not. What the Act does is merely to fix the latest dates for the fulfilment of the condition of payment of rent for faslis 1346 and 1347 to enable a tenant in arrears of any rent for fasli 1345 and earlier faslis to take advantage of the provisions of the Agriculturists' Relief Act regarding the cancellation of such arrears.

4. *Fort St. George, July 16, 1938*

No. 587.—

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 following statement shows the working of the Act and the nature and extent of the relief afforded to indebted agri-

culturists thereunder by all civil courts in the Presidency during the months of March and April, 1938 :—

*Statement showing the working of the Madras Agriculturists' Relief Act, 1938.
for the months of March and April, 1938.*

Description of items.	March 1938.	April 1938.
Number of cases pending at the beginning of the month ..	516	1,800
Number of cases received during the month ..	2,558	11,281
Number of cases to which the Act was applied <i>suo motu</i> by courts ..	14	22
Total ..	3,088	13,103
Number of cases disposed of during the month—		
UNDER SECTION 8—		
Number ..	188	506
Amount involved ..	Rs. 1,14,670- 1- 3	Rs. 2,43,656-13- 9
Amount as scaled down ..	„ 59,763-13- 4	„ 1,14,736-10- 9
UNDER SECTION 9—		
Number ..	188	435
Amount involved ..	„ 43,962- 0-10	„ 88,285- 0- 5
Amount as scaled down ..	„ 28,155- 8- 6	„ 65,485- 3- 1
UNDER SECTION 13—		
Number ..	48	70
Amount of interest involved ..	„ 3,775- 6- 0	„ 5,209-15- 0
Amount of interest as scaled down ..	„ 736-15- 6	„ 1,393- 4- 1
UNDER SECTION 18 (1)—		
Number ..	48	118
Amount of costs involved ..	„ 3,274- 1- 7	„ 5,110- 9- 0
Amount of costs as scaled down ..	„ 2,830- 0- 6	„ 3,786- 1- 2
UNDER SECTION 19—		
Number ..	9	103
Amount as originally decreed ..	„ 2,012-13- 6	„ 1,32,582-10- 1
Amount as scaled down in the amended decree ..	„ 1,049- 5- 5	„ 93,980- 9- 5
UNDER SECTION 20—		
Number ..	816	4,250
UNDER SECTION 21—		
Number ..	1	59
Amount involved ..	„ 5,675- 0- 0	„ 77- 0- 0
Amount as scaled down ..	„ 1,783- 0- 0	„ 51- 0- 0

Description of items.	March 1938.	April 1938.
UNDER SECTION 22—		
Number ..	2	Nil.
Amount refunded ..	Nil.	Nil.
UNDER SECTION 23—		
Number ..	12	182
Total number of cases disposed of during the month ..	1,312	5,773
Add number of cases disposed of otherwise than under the Act ..	Nil.	3*
Deduct number of cases disposed of under more than one section of the Act ..	24	44
Net number of cases disposed of during the month ..	1,288	5,732
Number of cases pending at the close of the month ..	1,800	7,371

* Two cases were compromised by parties and one case was dismissed for default.

N.B.—The extent of relief obtained by debtors in the half year ending August 1938 is as follows:—More than 36,000 cases have been disposed of involving Rs. 76.10 lakhs which have been scaled down to Rs. 40.46 lakhs, i.e., 47 per cent. But 7,000 of these cases involving Rs. 46 lakhs were applications by judgment-debtors for the amendment of decrees passed by courts already, and there were 18,700 applications for the stay of execution proceedings.

5. Fort St. George, July 20, 1938

No. 636.—

Under section 15 (1) of the Madras Agriculturists' Relief Act, all arrears of rent due to landholders or under tenure holders under the Madras Estates Land Act or to janmis or intermediaries under the Malabar Tenancy Act for fasli 1345 and earlier faslis will be treated as discharged only

- (i) if the rent for fasli 1347 is paid on or before the 30th September, 1938; and
- (ii) if the rent for fasli 1346 is paid on or before the 30th September 1939.

It has been brought to the notice of the Government that there is a general impression fostered by irresponsible persons that if the ryots do not pay the rents for faslis 1347 and 1346, they are likely to get some further concessions in respect of rents due for these two faslis, as the

result of future legislation relating to zamindari and other proprietary areas. The Government desire to make it clear that this impression is erroneous and that there is no proposal, either by way of legislation or otherwise, to grant any further concessions than have been allowed under the Madras Agriculturists' Relief Act in the matter of payment of arrears of rent. They would also impress on the persons interested that they would not only not gain anything by withholding the payment of the rents due for faslis 1346 and 1347 but would also lose the benefit of the concessions with respect to arrears of rents due for fasli 1345 and the earlier faslis unless they pay off the rents due for faslis 1346 and 1347 by the prescribed dates. All persons who encourage delay in payment of dues for faslis 1346 and 1347 are doing great disservice to the poor people concerned as they will lose the great benefits conferred on them by the Relief Act.

APPENDIX IV

PRESS COMMUNIQUE ON THE AGRICULTURISTS' LOANS (RELIEF OF INDEBTEDNESS)—RULES.

Dated Fort St. George, 15th September, 1938.

[Advances—Loans—Relief of Indebtedness—Rules.]

No. 782.—

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

* In the budget estimate for 1939-40, the Government have provided a sum of Rs. 75 lakhs for disbursement of loans to agriculturists, whose debts have been scaled down.

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 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 ordinary 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.	1000
Tahsildars	..	..	500
Deputy Tahsildars in independent charge	..	..	250
and when specially empowered by the Collector	..	..	500
Other Deputy Tahsildars when specially empowered by the Collector	..	..	250

Where Special Tahsildars or Special Deputy Tahsildars are appointed for the disbursement of the loans the Collector may empower them to grant loans up to Rs. 1000.

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.

APPENDIX IV
ACTS AND RULES

I

**AUTHORITATIVE SUMMARY OF THE PROVISIONS
OF THE ACT ***

1. OBJECT OF THE ACT

The Act is in force from 22nd March 1938. 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 due to zamindars, janmis and other land-holders.

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. (S. 8).

2. Where an agriculturist had 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.

* Government Communique. No. 325, dated 30th March, 1938, published in the Fort. St. George Gazette, dated 5th April, 1938 at pp. 505 to 507.

(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. (S. 9.)

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. (S. 13.)

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. [S. 3 (ii)]

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 benefits 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. [S. 3 (ii) Prov.]

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 (S. 10);
- (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 (S. 11).
- (e) Any sum spent to preserve mortgaged property;
- (f) Any sums due to Government or to local bodies (S. 4.);
- (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 disentitled 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. (Ss. 14, 5 & 6.)

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 [S. 3 (iii).]

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. (S. 20.)

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. (S. 18.)

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. (S. 23.)

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. (S. 22.)

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. (Ss. 26 & 27.)

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 por-

tion 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. (S. 15.)

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. (S. 16.)

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. [S. 15 (2).]

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. [S. 15 (3).]

II

THE MADRAS AGRICULTURISTS RELIEF ACT, 1938.

MADRAS ACT IV OF 1938.

[Passed by the Madras Legislature, received the assent of the Governor-General on the 11th March 1938 and first published in the "Fort St. George Gazette" on the 22nd March 1938.]

An Act to provide for the relief of indebted agriculturists in the Province of Madras.

WHEREAS it is expedient to provide for the relief of indebted agriculturists in the Province of Madras; It is hereby enacted as follows:—

CHAPTER I—PRELIMINARY.

Short Title.

1. This Act may be called the Madras Agriculturists Relief Act, 1938

Extent.

2. It extends to the whole of the Province of Madras.

Definitions.

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

(i) 'person' means an individual and includes an undivided Hindu family, a marumakkattayam or aliyasantana tarwad or tavazhi, but does not include a body corporate, a charitable or religious institution or an unincorporated company or association;

(ii) 'agriculturist' means a person who—

(a) has a saleable interest in any agricultural or horticultural land in the Province of Madras, not being land situated within a municipality or cantonment, which is assessed by the Provincial Government to land revenue (which shall be deemed to include peshkash and quit-rent), or which is held free of tax under a grant made, confirmed or recognized by Government; or

(b) holds an interest in such land under a land-holder under the Madras Estates Land Act (Madras Act I of 1908), as tenant, ryot or under-tenure holder; or

(c) holds an interest in such land, recognized in the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930); or

(d) holds a lease of such land from any person specified in sub-clause (a), (b) or (c) or is a sub-lessee of such land:

Provided that a person shall not be deemed to be an 'agriculturist' if he—

(A) has in either of the two financial years ending 31st March 1938 been assessed to income-tax under the Indian Income-tax Act (Act XI of 1922), or under the income-tax laws of any Indian State, or foreign government; or

(B) has within the two years immediately preceding the 1st October 1937 been assessed to profession-tax on a half-yearly income of more than three hundred rupees derived from a profession other than agriculture under the Madras District Municipalities Act (Madras Act V of 1920), the Madras City Municipal Act (Madras Act IV of 1919), the Cantonments Act (Act II of 1924), or any law governing municipal or local bodies in any other Province in British India, any Indian State or any foreign State in India, or under the Madras Local Boards Act (Madras Act XIV of 1920), in a panchayat which was a union before the 26th August 1930; or

(C) has within the two years immediately preceding the 1st October 1937, been assessed to property or house tax in respect of buildings or lands other than agricultural lands, under the Madras District Municipalities Act (Madras Act V of 1920), the Madras City Municipal Act (Madras Act IV of 1919), the Cantonments Act (Act II of 1924), or any law governing municipal or local bodies in any other province in British India or any Indian State, or under the Madras Local Boards Act (Madras Act XIV of 1920), in a panchayat which was a union before the 26th August 1930, provided that the aggregate annual rental value of such buildings and lands, whether let out or in the occupation of the owner, is not less than Rs. 600; or

(D) is a landholder of an estate under the Madras Estates Land Act (Madras Act I of 1908), or of a share or portion thereof in respect of which estate, share or portion any sum exceeding Rs. 500 is paid as peshkash or any sum exceeding Rs. 100 is paid as quit-rent, jodi, kattubadi, poruppu or the like, or is a janmi under the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), who pays any sum exceeding Rs. 500 as land revenue to the Provincial Government.

Explanation.—The annual rental value of any building or land for the purposes of proviso (C) shall—

(1) where the assessment is based on the annual rental value, be deemed to be such value;

(2) where the assessment is based on the capital value, be deemed to be five per cent of the capital value; and

(3) in any other case, be deemed to be the value ascertained in the prescribed manner ;

(iii) '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 rent as defined in clause (iv), or 'kanartham' as defined in section 3 (l) (1) of the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930) ;

(iv) 'rent' means rent as defined by the Madras Estates Land Act (Madras Act I of 1908), or rent or michavaram as defined by the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), or quit-rent, jodi, kattubadi, poruppu or the like, payable to the landholder of an estate as defined by the Madras Estates Land Act (Madras Act I of 1908), whether a decree or order of a civil or revenue court has been obtained therefor or not, and includes interest payable thereon but does not include costs incurred in respect of the recovery thereof through a civil or revenue court or the share of the land cess recoverable by the landholder under section 88 of the Madras Local Boards Act (Madras Act XIV of 1920) ; and

(v) 'creditor' includes his heirs, legal representatives and assigns.

Certain debts and liabilities not to be affected.

4. 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 alone in a municipality, a cantonment, or a panchayat which was a union before the 26th August 1930 ;

(e) 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 (Madras Act VI of 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 ;

(f) any liability arising out of a breach of trust ;

(g) any liability in respect of maintenance whether under decree of court or otherwise ;

(h) 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.

(i) any wages due to an agricultural or other rural labourer.

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 the 1st October 1937 or is an assignment to such society of a loan granted by a co-operative society.

Special provision for undivided Hindu families, etc.

5. Where an undivided Hindu family other than a marumakkattayam or aliyasantana tarwad or tavazhi is assessed to the taxes specified in provisos (A), (B) and (C) to section 3 (ii), or falls within the category of persons specified in proviso (D) to the same section, no person who was a member of the family on the 1st October 1937 shall be deemed to be an agriculturist for the purposes of this Act except section 13.

Sons and descendants of non-agriculturist members of Hindu families to be non-agriculturists.

6. Where in an undivided Hindu family other than a marumakkattayam or aliyasantana tarwad or tavazhi which is an "agriculturist" within the meaning of section 3 (ii), any member of the family is not an agriculturist, then, notwithstanding anything contained in section 3 (ii), none of his sons and descendants in the male line shall be deemed to be an agriculturist for the purposes of sections 7 to 12 and 19 to 27 of this Act.

CHAPTER II—SCALING DOWN OF DEBTS AND FUTURE RATE OF INTEREST.

Debts payable by agriculturists to be scaled down.

7. Notwithstanding any law, custom, contract or decree of court to the contrary, all debts payable by an agriculturist at the commencement of this Act, shall be scaled down in accordance with the provisions of this Chapter.

No sum in excess of the amount as so scaled down shall be recoverable from him or from any land or interest in land belonging to him; nor shall his property be liable to be attached and sold or proceeded against in any manner in the execution of any decree against him in so far as such decree is for an amount in excess of the sum as scaled down under this Chapter.

Provision for debts incurred before 1st October 1932.

8. Debts incurred before the 1st October 1932 shall be scaled down in the manner mentioned hereunder, namely :—

(1) All interest outstanding on the 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.

(2) Where an agriculturist has paid to any creditor twice the amount of the principal whether by way of principal or interest or both, such debt, including the principal, shall be deemed to be wholly discharged.

(3) 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 or such portion of the principal amount as is outstanding, whichever is smaller, shall be repayable.

(4) Subject to the provisions of sections 22 to 25, 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, or to increase the liability of a debtor to pay any sum in excess of the amount which would have been payable by him if this Act had not been passed.

Explanation.—Where a debt has been 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 sum repayable by the agriculturist under this section.

Provision for debts incurred on or after 1st October 1932.

9. Debts incurred on or after the 1st October 1932 shall be scaled down in the manner mentioned hereunder, namely :—

(1) Interest shall be calculated up to the commencement of this Act at the rate applicable to the debt under the law, custom, contract

or decree of Court under which it arises or at five per cent per annum simple interest, whichever is less and credit shall be given for all sums paid towards interest, and only such amount as is found outstanding, if any, for interest thus calculated shall be deemed payable together with the principal amount or such portion of it as is due :

Provided that any part of the 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 had been contracted prior to the 1st October 1932, shall be dealt with under the provisions of section 8.

(2) Subject to the provisions of sections 22 to 25, nothing herein contained shall be deemed to require the creditor to refund any sum which has been paid to him or to increase the liability of the debtor to pay any sum in excess of the amount which would have been payable by him if this Act had not been passed.

Exceptions.

10. (1) The provisions of sections 8 and 9 shall not apply to any person who, though an agriculturist as defined in section 3 (ii), did not on the 1st October 1937, hold an interest in, or a lease or sub-lease of, any land as specified in that section.

(2) Nothing contained in sections 8 and 9 shall affect—

(i) any mortgage by virtue of which the mortgagee is in possession of the property mortgaged, where no rate of interest is stipulated as due to the mortgagee, or

(ii) any liability for which a charge is provided under section 55, clause 4, sub-clause (b) of the Transfer of Property Act, or

(iii) any liability in respect of any sum due to any public company as defined in the Indian Companies Act, 1913, or to any scheduled bank as defined by section 2 (e) of the Reserve Bank of India Act, 1934, if the interest payable in respect of the liability is not more than nine per cent per annum.

Provision as to costs, etc., in certain cases.

11. 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 in addition to the sum recoverable under the provisions of sections 8 and 9.

Rate of interest payable by agriculturists on old loans.

12. All debts which have been scaled down under the provisions of this Act shall, so far as any sum remains payable thereunder, carry

from the date up to which they have been scaled down interest on the principal amount due on that date at the rate previously applicable under law, custom, contract or otherwise :

Provided that it shall not in any case exceed $6\frac{1}{4}$ per cent per annum simple interest, that is to say, one pie per rupee per mensem, simple interest, or one anna per rupee per annum simple interest.

Rate of interest payable by agriculturists on new loans.

13. In any proceeding for recovery of a debt, the court shall scale down all interest due on any debt incurred by an agriculturist after the commencement of this Act, so as not to exceed a sum calculated at $6\frac{1}{4}$ per cent per annum, simple interest, that is to say, one pie per rupee per mensem simple interest, or one anna per rupee 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.

Explanation.—For the purposes of this section, the definition of 'agriculturist' in section 3 (ii) shall be read as if—

(i) in proviso (A) to that section, for the expression "the two financial years ending 31st March 1938," the expression "the two financial years ending on the 31st March immediately preceding the date on which the debt is incurred" were substituted; and

(ii) in provisos (B) and (C) to that section, for the expression "the two years immediately preceding the 1st October 1937," the expression "the two years ending on the 31st March or the 30th September (which ever is later) immediately preceding the date on which the debt is incurred" were substituted.

Separation of share of debt in particular cases.

14. Notwithstanding anything contained in section 3 (ii) and subject to the provisions of sections 5 and 6, where in a Hindu family, whether divided or undivided, some of the members liable in respect of a family debt are not agriculturists while others are agriculturists, the creditor shall, notwithstanding any law to the contrary, be entitled to proceed—

(a) against the non-agriculturist member or members and his or their share of the family property, to the extent only of his or their proportionate share of the debt; and

(b) against the agriculturists member or members and his or their share of the family property, to the extent only of his or their proportionate share of the debt which shall be scaled down in accordance with the provisions of this Act.

CHAPTER III—ARREARS OF RENT.

Conditional discharge of arrears of rent due to landholders, etc.

15. (1) All rent payable by an agriculturist to a landholder or an under-tenure holder under the Madras Estates Land Act (Madras Act I of 1908), or to a janmi or intermediary under the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), which has accrued for the fasli year 1345 and prior faslis and which is 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 where the person liable to pay rent (hereinafter in this section referred to as 'tenant') does not, on or before the 30th September 1939, pay up all arrears of rent accrued in respect of any holding for faslis 1346 and 1347, the arrears of rent for fasli 1345 and prior faslis which were outstanding in respect of the same holding on the date of the commencement of this Act shall be deemed to be discharged only in the same proportion as the rent due for faslis 1346 and 1347 which is paid up by the ryot or tenant bears to the rent due for those two faslis :

Provided further that no tenant shall be entitled to the benefit of this section unless he shall have paid, in respect of the holding, the rent due for fasli 1347 on or before the 30th September 1938.

Explanation.—In cases governed by the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), any reference to a fasli year in this Chapter shall be deemed to be a reference to the agricultural year as defined in the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), which contains the greater part of the fasli year.

Illustrations.—(a) A ryot or tenant is in arrear at the commencement of this Act in respect of rent for a particular holding for fasli 1345 and prior faslis in the sum of Rs. 500 and is in arrear on that date in respect of rent for the same holding for faslis 1346 and 1347, the rent for each fasli being Rs. 100. Within the 30th September 1938 he pays the rent for fasli 1347 and within 30th September 1939 he pays the rent for fasli 1346. The arrears of rent of Rs. 500 which were outstanding at the commencement of this Act will be deemed to be discharged.

(b) A sum of Rs. 500 representing the arrears of rent in respect of a particular holding for fasli 1345 and prior faslis and the rents for faslis 1346 and 1347 for that holding are in arrear and outstanding at the commencement of this Act, the rent for each fasli being Rs. 100. The ryot or tenant pays the landholder within 30th September 1938 the

rent for fasli 1347 but fails to pay within the 30th September 1939 any portion of the rent for fasli 1346. Only a sum of Rs. 250 or one half of the rent of faslis prior to and inclusive of fasli 1345 will be deemed to be discharged.

(c) In the same case, the ryot or tenant does not pay the landholder within the 30th September 1938 the whole of the rent for fasli 1347. No portion of the arrears for fasli 1345 and prior faslis is discharged, and the ryot loses the benefit of this section.

(d) In the same case, the ryot or tenant pays the landholder within 30th September 1938 the rent for fasli 1347, but pays within 30th September 1939 only Rs. 50, being half the rent for fasli 1346. He has thus paid Rs. 150 out of Rs. 200 being the rent of both the faslis 1346 and 1347, before 30th September 1939. A sum of Rs. 375, or three-fourths of the rent of faslis prior to and inclusive of fasli 1345 will be allowed to be discharged.

(2) Nothing contained in sub-section (1) shall be deemed to effect a discharge of arrears of rent which accrued due for fasli 1345 if proceedings for the recovery of such arrears stood stayed by an Act of the Legislature or by an order of a Court or if such proceedings, if instituted, would have stood so stayed. But the arrears of rent for fasli 1345 shall not be recoverable until the 30th September 1938 or, if the rent for fasli 1347 is paid before that date, until the 30th September 1939.

(3) Notwithstanding anything to the contrary in any agreement or in section 64 of the Madras Estates Land Act (Madras Act I of 1908), any payment of rent made by a tenant after the commencement of this Act shall be credited towards the rent due by him for fasli 1347 in the first instance and for fasli 1346 in the next instance, and not towards the rent due for any previous fasli.

(4) Every tenant shall be at liberty to pay into Court any amount towards the rent due or claimed to be due by him for faslis 1347 or 1346 or both and thereupon the Court shall, after notice to the landholder, under-tenure holder, janmi or intermediary, as the case may be, apply the provisions of this Act and determine whether the whole or only a portion of the rent for the faslis aforesaid has been paid by the tenant, and also the extent of the remaining liability, if any, of the tenant for rent under the provisions of this Act.

Explanation.—For the purposes of this sub-section, 'Court' shall mean the Collector referred to in section 209 (1) of the Madras Estates Land Act (Madras Act I of 1908), or the Court referred to in section 3 (b) of the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), as the case may be.

Landholder to be entitled to recover land cess and costs.

16. Notwithstanding anything contained in this chapter, a landholder or an under-tenure holder under the Madras Estates Land Act (Madras Act I of 1908), or a janmi or intermediary under the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), shall be entitled to recover, in addition to any sum recoverable by him under section 15—

(a) the land cess, if any, paid by him and recoverable under section 88 of the Madras Local Boards Act (Madras Act XIV of 1920) ;

(b) the land revenue and water cess, if any, paid by him to the Provincial Government which the tenant was bound to pay by virtue of any law, custom, contract or decree of court governing the tenancy ; and

(c) the costs awarded to him in any decree for rent obtained by him.

Extension of limitation for suits, etc., for rent in certain cases.

17. Notwithstanding anything contained in the Madras Estates Land Act (Madras Act I of 1908), or the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930), or in any law of limitation or procedure in force for the time being, no suit or execution proceedings in respect of arrears of rent accrued for fasli 1345 or any prior fasli which, under the existing law, would become barred between the 1st October 1937 and the 30th September 1938, shall be so barred and the landholder, under-tenure holder, janmi or intermediary, as the case may be, shall be entitled to file a suit or institute execution proceedings for recovery thereof, on or before the 31st December 1938 ; and in cases where the rent due for fasli 1347 has been paid before the 30th September 1938, the period of limitation for any suit or execution proceedings for the recovery of any arrears of rent which, under the existing law, would become barred between the 1st October 1937 and the 30th September 1939, shall stand extended until the 31st December 1939 :

Provided that where on the 31st December 1938 or the 31st December 1939, as the case may be, an application under sub-section (4) of section 15 is pending in any Court, the period of limitation prescribed by this section shall stand extended until the expiry of a period of two months from the date of the order on such application.

CHAPTER IV—PROCEDURE AND MISCELLANEOUS.

Provision as to costs in certain cases.

18. (1) Where a decree is passed against an agriculturist in a suit filed on or after the 1st October 1937, the Court shall allow only such costs as would have been allowable 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 application by the agriculturist, amend the decree accordingly.

(2) Nothing in sub-section (1) shall apply to any suit instituted on or after the 1st October 1937 and before the commencement of this Act in respect of a claim which would be barred by limitation before the 1st April 1938.

Amendment of certain decrees.

19. Where before the commencement of this Act, a Court has passed a decree for the repayment of a debt, it shall, on the application of any judgment-debtor who is an agriculturist or in respect of a Hindu joint family debt, on the application of any member of the family whether or not he is the judgment-debtor or on the application of the decree-holder, apply the provisions of this Act to such decree and shall, notwithstanding anything contained in the Code of Civil Procedure (Act V of 1908), amend the decree accordingly or enter 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 to the creditor.

Stay of Execution proceedings.

20. Every court executing a decree passed against a person entitled to the benefits of this Act shall, on application, stay the proceedings until the court which passed the decree has passed orders on an application made or to be made under section 19 :

Provided that where within 60 days after the application for stay has been granted the judgment-debtor does not apply to the court which passed the decree for relief under section 19 or where an application has been so made and is rejected, the decree shall be executed as it stands, notwithstanding anything contained in this Act to the contrary.

Explanation.—The expression "the court which passed the decree" shall have the same meaning as in the Code of Civil Procedure (Act V of 1908).

Adjudications in insolvency.

21. Nothing contained in this Act shall apply to the debts payable by any person who has been adjudicated an insolvent, if, prior to the coming into force of this Act, a dividend has been declared out of his assets. If a dividend has not been so declared, this Act shall apply to

the debts payable by such person if he would have been an agriculturist within the meaning of this Act but for his adjudication in insolvency.

Special provision in the case of certain sales of movable property.

22. Where, in execution of any decree, any movable property of an agriculturist has been sold on or after the 1st October 1937, any judgment-debtor may apply to the court for an order that the provisions of section 8 or 9, as the case may be and of sections 11 and 12 be applied to the decree, and the court, shall, if satisfied that the applicant is an agriculturist entitled to the benefits of those sections, apply the same and order the decree-holder to refund any sum received by him on or after the 1st October 1937 in excess of the amount to which he would have been entitled if the property had not been sold :

Provided that no such order shall be made without notice to the decree-holder and without affording him an opportunity to be heard in the matter.

Sales of immovable property to be set aside in certain cases.

23. Where in execution of any decree any immovable property, in which an agriculturist had an interest, has been sold or foreclosed on or after the 1st October 1937, then, notwithstanding anything contained in the Indian Limitation Act (Act IX of 1908), or in the Code of Civil Procedure (Act V of 1908), and notwithstanding that the sale has been confirmed, any judgment-debtor, claiming to be an agriculturist entitled to the benefits of this Act, may apply to the court within 90 days of the commencement of this Act to set aside the sale or foreclosure of the property, and the court shall, if satisfied that the applicant is an agriculturist entitled to the benefits of this Act, order the sale or foreclosure to be set aside, and thereupon the sale shall be deemed not to have taken place at all :

Provided that no such order shall be made without notice to the decree-holder, the auction purchaser, and other persons interested in such sale or foreclosure and without affording them an opportunity to be heard in the matter.

Consequential provision on setting aside of sale.

24. Where a sale is set aside under the preceding section, a purchaser shall be entitled to an order for repayment of any purchase money paid by him against the person to whom it has been paid :

Provided that no poundage shall be payable in respect of any such sale and provided further that where poundage has been collected the court shall direct the same to be refunded.

Alienations by debtor.

25. All alienations of immovable property made by an agriculturist debtor on or after the 1st October 1937 shall be invalid as against every creditor whose sale in execution or foreclosure decree has been set aside under section 23 or who became entitled to rateable distribution of the proceeds of such sale under section 73 of the Code of Civil Procedure (Act V of 1908).

District Collector to furnish information as to certain facts.

26. Any creditor may apply to the Collector of the district in which the creditor believes his debtor to have been or to be assessed to income-tax in terms of proviso (A) to section 3 (ii) or to profession, property or house tax under the Cantonments Act (Act II of 1924) in terms of provisos (B) and (C) to that section, for information as to the above facts and the Collector shall thereupon ascertain such information and grant to such creditor a memorandum in the prescribed form as to whether the debtor has been so assessed to income-tax or to profession, property or house tax. Such memorandum shall be received in every court as evidence of the facts stated therein.

Executive authorities of local bodies to furnish information as to certain facts.

27. Any creditor may apply to the executive authority of a municipality, the president of a local board or the Revenue Officer of the Corporation of Madras for information as to whether his debtor was or is assessed to profession, property or house tax in terms of provisos (B) and (C) to section 3 (ii), and the executive authority, president or Revenue Officer shall thereupon grant to such creditor a certificate in the prescribed form as to whether the debtor named in the application has been so assessed to profession, property or house tax. Such certificate shall be received in every court as evidence of the facts stated therein.

Power to make rules.

28. (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 power, the Provincial Government may make rules—

(a) in regard to any matter which is required to be prescribed by this Act;

(b) prescribing the form of, and the fees to be paid in respect of, applications under 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 the Official Gazette and upon such publication shall have effect as if enacted in this Act.

II (a)

RULES MADE UNDER THE MADRAS AGRICULTURISTS' RELIEF ACT.

Notifn. No. 272, dated 24th March 1938 as amended. In exercise of the powers conferred by clauses (a) and (b) of sub-s. (2) of s. 28 of the Madras Agriculturists' Relief Act (Madras Act IV of 1938), the Government of Madras are hereby pleased to make the following rules :—

1. Any tenant desirous of paying into court any amount towards the rent due or claimed to be due by him, for faslis 1347 or 1346 or both, under sub-section (4) of section 15 of the Act, shall present to the court an application in writing for the purpose. The application shall specify the name and address of the applicant, the amount of rent paid by him into court, the fasli or faslis for which it is paid and the name and address of the landholder, under-tenure holder, janmi or intermediary to whom it is to be paid. The application shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908.

I-A. Where a tenant has on or before the 30th September 1938 paid into court an amount which he believed to be the full amount of rent due for fasli 1347 in respect of the holding, and it is subsequently found by the court that owing to a bona fide mistake in calculating the price of paddy or other article payable as rent, or the interest on the rent, or otherwise, the amount actually paid fell short of the correct rent as finally determined by the court, the tenant shall be entitled to pay into court the deficiency within fifteen days of the date on which the court determined the correct rent; and such payment shall for the purposes of the Act be deemed to have been made on the date on which the original payment into court was made.

2. An application under s. 18, 19, 20, 22 or 23 of the Act shall be in writing, shall specify the name and address of the applicant, the name and address of the respondent, a clear statement of the facts of the case and the nature of the relief prayed for, and shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908.

3. An application under s. 26 or 27 of the Act shall be in writing, shall specify the name and address of the applicant, the information required, and the name and address of the person in respect of whom, and the purpose for which, such information is required, and shall be signed and verified in the same manner as a pleading under the Code of Civil Procedure, 1908.

4. There shall be affixed to every application under section 15 (4) read with rule 1 or under s. 18, 19, 20, 22, 23, 26 or 27 of the Act, a court-fee stamp of the value of twelve annas.

5. (1) A memorandum granted to a creditor under s. 26 of the Act shall be in Form A appended to these rules with such variations as circumstances may require.

(2) A certificate granted to a creditor under s. 27 of the Act shall be in Form B appended to these rules, with such variations as circumstances may require.

6. (1) All suits and execution proceedings for the recovery from an agriculturist of the arrears of rent due from him to a landholder or an under tenure holder under the Madras Estates Land Act, 1908, or to a janmi or intermediary under the Malabar Tenancy Act 1929, which has accrued for the fasli year 1345 and prior faslis, whether solely or in combination with the arrears of rent which has accrued for fasli 1346 or 1347 or both, pending on the 21st June 1938 or instituted thereafter, shall stand stayed until the 30th September 1938, or if the rent for fasli 1347 is paid on or before the 30th September 1938 until the 30th September 1939.

Provided that nothing in this sub-rule shall be deemed to deprive the agriculturist of any remedy or relief which may be available to him in any such suit or proceeding.

Explanation.—In this sub-rule, the expressions 'fasli year' and 'fasli' shall have the same meaning as in section 15 of the Act.

(2) All suits and execution proceedings stayed under sub-rule (1) shall, after the 30th September 1938 or the 30th September 1939, as the case may be, proceed, subject to the provisions of the Act, from the stage which had been reached at the time when they were so stayed.

7. Where a person in whose name an assessment to property or house tax has been made in terms of proviso (C) to section 3 (ii) of the Act proves that he was not the owner of the property or house assessed, at any time during the period mentioned in the said proviso, such assessment shall not by itself have the effect of excluding such person from the category of 'agriculturist' as defined in the said section.

FORM A.

[See rule 5 (1).]

Memorandum granted by the Collector of under
s. 26, of the Madras Agriculturists' Relief Act (Madras Act IV of 1938).

Read application from.....dated.....

Mr.

Mrs. of has been

Miss

assessed to—

(1) income-tax under*.....in the financial
year ending.....

(2) profession-tax by the.....cantonment for the
the half-year ending.....on a half-yearly income of
.....rupees, derived from a profession other than agri-
culture, under*.....

(3) property or house-tax by the.....canton-
ment in respect of buildings or lands other than agricultural lands
under*.....and that the aggregate annual rental
value of such buildings or lands is.....rupees.

Signature of the Collector.

FORM B.

[See rule 5 (2).]

Certificate granted under s. 27 of the Madras Agriculturists' Relief
Act (Madras Act IV of 1938).

Read application from.....dated.....

I.....the executive authority of.....Municipality
.....the President of.....Board
.....the Revenue Officer of the Corporation of Madras

Mr.

do hereby certify that Mrs.....of.....

Miss

has been assessed to—

(1) profession-tax for the half-year ending.....
on a half-yearly income of.....rupees derived from a
profession other than agriculture, under*.....

(2) property or house-tax in respect of buildings or lands
other than agricultural lands under*.....and that
the aggregate annual rental value of such buildings or lands is
.....rupees.

Signature of the authority
granting the certificate.

* The appropriate Act or law under which assessment is made shall be entered here.

III

THE MADRAS DEBTORS, PROTECTION ACT, 1934

(MAD. ACT VII OF 1935 AS AMENDED BY MAD. ACT IV OF 1936)

[Passed on the 6th March, 1935]

*An Act for the protection of certain classes of debtors in the
Presidency of Madras.*

WHEREAS it is expedient to make provision for the protection of certain classes of debtors in the Presidency of Madras, and for that purpose to regulate the keeping of accounts by certain classes of creditors ;

AND WHEREAS the previous sanction of the Governor-General 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 Madras Debtors' Protection Act, 1934.

(2) It extends to the whole of the Presidency of Madras.

* (3) It shall come into force on such date as the Local Government may, by notification in the *Fort St. George Gazette*, appoint.

Definitions.

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

(1) "bank" means a company carrying on the business of banking and—

(a) 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

(b) incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislatures ;

(2) "company" means a company—

(a) 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

*The Act came into force on the 15th Jan. 1936.

(b) incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislature,

and includes a life assurance company to which the Indian Life Assurance Companies Act (VI of 1912) applies ;

(3) " co-operative society " means a society registered or deemed to be registered under the Madras Co-operative Societies Act (Madras VI of 1932) ;

(4) " Court " includes a court acting in the exercise of insolvency jurisdiction ;

(5) " creditor " means a person, including a pawnbroker, who in the regular course of business advances a loan and includes the legal representative and the successor-in-interest whether by inheritance, assignment or otherwise of the person who advanced the loan ;

(6) " interest " does not include any sum lawfully charged in accordance with the provisions of this Act by a creditor 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 creditor in consideration of or otherwise in respect of a loan,

(7) " loan " means an advance of money or in kind at interest, being for a sum, or being of a value, of less than five hundred rupees at a time in any one transaction, and includes any transaction which the Court finds in substance to amount to such an advance, but does not include—

(i) a deposit of money or other property in a Government Post Office Savings Bank, or in a bank, in a company or with a Co-operative society.

(ii) an advance made by a bank, a company or a co-operative society ;

(iii) an advance made by Government or by any person authorized by Government to make advances in their behalf, or by any local authority ;

(iv) an advance made by any person *bona fide* carrying on any business, not having for its primary object the lending of money, if such loan is advanced in the regular course of such business ;

(v) an advance made by a landlord to his tenant, by a lessor to his lessee, by one partner in cultivation or co-sharer to another for the purpose of carrying on agriculture ;

(vi) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act (XXVI of 1881), other than a promissory note ;

(8) "pawnbroker" means a person who carries on the business of taking goods and chattels in pawn for a loan ;

(9) "pawner" means a person delivering an article for pawn to a pawnbroker ;

(10) "prescribed" means prescribed by rules made under this Act ; and

(11) "principal" means in relation to a loan the amount actually lent to the debtor.

Duty of creditor to maintain accounts and to give receipts.

3. (1) Every creditor shall—

(a) regularly record and maintain or cause to be recorded and maintained, an account showing for each debtor separately—

(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 ; and

(ii) the amount of every payment received by the creditor in respect of the loan, and the date of such payment ;

(b) give to the debtor or his agent, a receipt for every sum paid by him, duly signed and, if necessary, stamped at the time of such payment ; and

(c) on requisition in writing made by the debtor, furnish to the debtor or, if he so requires, to any person mentioned by him in that behalf in his requisition, a statement of account signed by himself or his agent showing the particulars referred to in clause (a) and also the amount which remains outstanding on account of the principal and of interest and charge such sum as the Local Government may prescribe as fee therefor.

(2) Notwithstanding anything contained in the Indian Evidence Act (I of 1872), a copy of the account referred to in clause (a) of sub-section (1) certified in such manner as may be prescribed, shall be admissible in evidence in the same manner and to the same extent as the original account.

(3) A person to whom a statement of account has been furnished under clause (c) of sub-section (1) and who fails to object to the correctness of the account shall not by such failure alone be deemed to have admitted the correctness of such account.

Additional accounts to be maintained by pawnbrokers.

4. (1) Every pawnbroker shall regularly record and maintain an account in which, in addition to the particulars referred to in clause (a)

of sub-section (1) of section 3, he shall record or cause to be recorded—

(a) a full and detailed description of the article or of each of the articles taken in pawn,

(b) the time agreed upon for the redemption of the pawn, and

(c) the name of the pawner and, where the pawner is not the owner of the article or of any of the articles pawned, the name and address of the owner thereof.

(2) A copy of the entries in such account shall be delivered by the pawnbroker to the pawner at the time of the pawn on tender of such sum as the Local Government may prescribe as the charge therefor.

Figures in accounts and receipts to be in Arabic numerals.

5. In the receipt to be given under clause (b) of sub-section (1) of section 3, in the statement of account to be furnished under clause (c) of that sub-section and in the copy of the entries to be delivered under sub-section (2) of section 4, the figures shall be entered only in Arabic numerals.

Penalty for noncompliance with sections 3 and 4.

6. (1) In any suit or proceeding relating to a loan, if the Court finds that a creditor has not maintained an account as required by clause (a) of sub-section (1) of section 3 or by sub-section (1) of section 4, he shall not be allowed his costs.

(2) If a creditor fails to give to the debtor or his agent a receipt as required by clause (b) of sub-section (1) of section 3 or to furnish, on a requisition made under clause (c) of that sub-section, a statement of account as required therein within one month after such requisition has been made, or if a pawnbroker fails to deliver to the pawner, a copy of the entries as required by sub-section (2) of section 4, he shall not be entitled to any interest for the period of the default.

Presumption in the case of certain loans.

6-A. (1) If in any suit or proceeding relating to a loan advanced after the commencement of the Madras Debtors' Protection (Amendment) Act, 1935, it is found that the interest charged exceeds, in the case of a secured loan, nine per cent per annum simple interest and in the case of an unsecured loan, fifteen per cent per annum simple interest, the Court shall, until the contrary is proved, presume for the purposes of sections 3 and 4 of the Usurious Loans Act (X of 1918), that the interest charged is excessive and that the transaction was, as between the parties thereto, substantially unfair.

Explanation.—In the case of any loan so advanced, if compound interest is charged and the amount claimed by the creditor by way of such interest until the date of the institution of the suit or proceeding for the recovery of the loan exceeds the amount of simple interest calculated at the rate of nine per cent per annum or fifteen per cent per annum, as the case may be, the Court shall draw the presumption referred to in this sub-section until the contrary is proved.

(2) The provisions contained in sub-section (1) shall be without prejudice to the powers of the Court under sections 3 and 4 of the Usurious Loans Act (X of 1918), in cases where the court has reason to believe that the interest charged, though not exceeding nine per cent per annum simple interest or fifteen per cent per annum simple interest, as the case may be, is excessive and that the transaction was, as between the parties thereto, substantially unfair.

Savings.

7. Nothing contained in this Act shall apply to any loan advanced before the commencement of this Act.

Rules.

8. (1) The Local Government may make rules not inconsistent with this Act for the purpose of carrying out all or any of its purposes.

(2) In particular and without prejudice to the generality of the foregoing power the Local Government may make rules prescribing—

(a) the sum which may be charged as fee for a statement of account, furnished under clause (c) of sub-section (1) of section 3,

(b) the manner in which a copy of the account shall be certified for the purpose of sub-section (2) of section 3, and

(c) the sum which may be charged for a copy of the entries in a pawnbroker's account, to be delivered by the pawnbroker to the pawner under sub-section (2) of section 4.

III (a)

THE MADRAS DEBTORS' PROTECTION RULES, 1936.

No. 950.—*In exercise of the powers conferred by section 8 of the Madras Debtors' Protection Act, 1934 (Madras Act VII of 1935), the Governor in Council is hereby pleased to make the following rules:—*

Short title and commencement.

1. (1) These rules may be called the Madras Debtors' Protection Rules, 1936.

(2) They shall come into force on and from the 15th January 1936.

Definition.

2. In these rules, unless there is anything repugnant in the subject or context, "the Act" means the Madras Debtors' Protection Act, 1934.

Maintenance of accounts.

3. (1) Every creditor shall keep a separate account in respect of each loan.

(2) The name and address of the debtor, and in the case of joint-debtors, of each joint-debtor shall be entered at the head of the account.

(3) Every entry in an account shall be dated with the date of the transaction to which it relates and shall, as far as possible, be made on such date.

(4) The account shall show the balance on account of the principal and interest outstanding against a debtor on the 30th June and 31st December of every year and shall also show the balance outstanding on the date of any statement of account prepared in accordance with clause (c) of sub-section (1) of section 3 of the Act.

Statement of account to be in English or in the chief vernacular language of the locality.

4 The statement of account to be furnished to the debtor as well as the receipt to be given to him shall be in English or in the chief vernacular language of the locality.

Manner of furnishing statement of accounts.

5. (1) (a) The statement of account shall be sent to the debtor by registered post, acknowledgment due, to the address given in the requisition made by the debtor.

(b) In the case of joint-debtors, the statement of account shall, in the absence of an agreement to the contrary, be sent in the manner laid down in clause (a) to the joint-debtor named first at the head of the account.

(2) Notwithstanding anything contained in sub-rule (1) where the debtor or, in the case of joint-debtors, the joint-debtor named first at the head of the account agrees in writing to the statement being delivered personally, it shall not be necessary to send it by registered post.

(3) When a debtor or a joint-debtor takes personal delivery of the statement of account, he shall acknowledge receipt of the same in

writing. The debtor or the joint-debtor, as the case may be, shall sign the acknowledgment, or if he is illiterate affix his thumb impression thereto.

(4) If the statement of account is sent by registered post, the production of the postal receipt and acknowledgment shall be sufficient proof of the sending of such statement.

(5) The postal registration and acknowledgment charges incurred under sub-rule (1) shall be entered in the account and shall be recoverable by the creditor as if such charges were included in the loan, but no interest shall be charged thereon.

(6) (a) The fee which may be charged by a creditor for a statement of account furnished by him under clause (c) of sub-section (1) of section 3 of the Act shall be as follows:—

- (i) If the amount of the loan does not exceed Rs. 50, 0-1-0 ;
- (ii) If the amount of the loan exceeds Rs. 50 but does not exceed Rs. 100, 0-2-0 ;
- (iii) If the amount of the loan exceeds Rs. 100 but does not exceed Rs. 300, 0-3-0 ;
- (iv) If the amount of the loan exceeds Rs. 300 but is less than Rs. 500, 0-4-0.

Explanation.—The fee shall be charged separately in respect of each loan and each requisition. Thus the fee for the statements relating to two separate loans of Rs. 120 and of Rs. 360 will be seven annas.

(b) The fee shall be recoverable by the creditor as if it were included in the loan but no interest shall be charged thereon.

Person to whom the receipt is to be given in the case of a joint loan.

6. Where there are two or more joint-debtors, the creditor shall, in the absence of any agreement to the contrary, give the receipt to the joint-debtor named first at the head of the account or to his agent.

Manner of certifying copies of accounts.

7. (1) No copy of an account shall be admissible in evidence under sub-section (2) of section 3 of the Act, unless it contains two certificates at the foot, the first by the creditor himself or his agent and the second by some other person who has compared the copy with the original.

(2) The certificate of the creditor or his agent under sub-rule (1) shall be in the following form:—

“I certify that the above is a true copy of the account maintained under section 3 (1) (a) of the Madras Debtors' Protection Act, 1934, for the loan of Rs.———taken by———on———(date) and that there are no alterations or erasures in the account (except the following).”

Signature of creditor or his agent.

(3) The certificate of a person other than the creditor or his agent shall be in the following form:—

“ I certify that I have compared the above copy with the original account in the custody of the creditor and found it to be correct.

Signature ; Designation ; Address.”

Sum chargeable for a copy of the entries in pawn-brokers account.

8. The sum which may be charged by a pawn-broker for a copy of the entries in his account delivered by him to the pawner under subsection (2) of section 4 of the Act shall be one anna.

IV

THE AGRICULTURISTS' LOANS (MADRAS AMENDMENT) ACT.

(XVI of 1935).

Prefatory Note.

Sub. sec. (1) of S. 4 of the Agriculturists' Loans Act, 1884 (XII of 1884) empowers the Local Government to make, from time to time, rules as to loans to be made to owners and occupiers of arable land for the relief of distress, the purchase of seed or cattle or any other purpose not specified in the Land Improvements Loans Act, 1883, but connected with agricultural objects. It is not clear whether this provision will enable the Local Government to make rules regulating the grant of loans to owners and occupiers of arable land for the relief of indebtedness. It is accordingly proposed to amend the Agriculturists' Loans Act, 1884, in its application to the Presidency of Madras so as to bring loans for the relief of indebtedness expressly within the scope of sub-section (1) of S. 4 of that Act. The Bill is intended to give effect to this proposal.

An Act to amend the Agriculturists' Loans Act, 1884, in its application to the Presidency of Madras, for the purpose hereinafter appearing. It is hereby enacted as follows :—

Short Title.

This Act may be called the Agriculturists' Loans (Madras Amendment) Act, 1935.

Amendment of Section 4 Act XII of 1884.

2. In sub-section (1) of section 4 of the Agriculturists' Loans Act, 1884, after the words "the relief of distress", the words "or indebtedness", shall be inserted.*

* The Section as amended by this Act would run as follows:—

Power for Local Government to make rules.

4. (1) The Local Government or in a province for which there is a Board of Revenue or Financial Commissioner, such Board of Financial Commissioner, subject to the control of the Local Government may, from time to time, make rules as to loans to be made to owners and occupiers of arable land for the relief of distress or indebtedness, the purchase of seed or cattle or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects.

(2) All such rules shall be published in the local official Gazette."

IV (a)

AGRICULTURISTS' LOANS (RELIEF OF INDEBTEDNESS) RULES.

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 (l) (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 ..	500
Other Deputy Tahsildars (when specially empowered by the Collector) ..	250

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 $6\frac{1}{4}$ 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, zamindari, 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.	Rights of others in the property.		
		Name.	Nature and extent of right whether as co-sharer, mortgagee, 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, zamindari, 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.	Rights of others in the property.		
		Name.	Nature and extent of right whether as co-sharer, mortgagee, 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 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 signature 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

Name of creditor.	Amount due to the creditor according to the applicant.	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.
(1)	(2) Rs.	

(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 at the enquiry held by the _____ Revenue Divisional Officer _____ Tahsildar, _____, on _____ Deputy Tahsildar _____ residing at _____ village, 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 _____ Revenue Divisional Officer _____ Tahsildar _____ finally decides mortgage deed dated in case the _____ Tahsildar _____ document _____ Deputy Tahsildar _____ 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 _____, the said _____ and the said creditor (or creditors) are hereby informed that subject to the results of the detailed local enquiry proving

Name of creditor.	Date of pronote, mortgage, or other document.	Amount accepted (in figures and words.)
(1)	(2)	(3)
		Rs.

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

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

* 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.

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.

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 transferrable 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 parti-

culars 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.

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 Amount If there is a decree or
 the awarded. order by a civil court or
 creditors. 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 (with the consent of
 the record of which is hereto annexed) and the duly constituted guardian

* To be filled in only when the enquiring officer is not the Loans Officer.

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 *
_{debts} 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. (5) Rs.
(1)	(2)	(3)	(4)	(5)

(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 $6\frac{1}{4}$ 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 instal-
 ment 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 in-
 terest 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

* 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).

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 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) Rs.	(3)

† 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.

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 _____ Revenue Divisional Officer.

 _____ Tahsildar
 Date _____ 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 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 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 said minor for the time being of the said minor 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 minor 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)
					Ac.	Rs.	

(Signed)

Signature of borrower.

Witness—

(Signed) (1) , son of , village of
 (") (2) , son of , village of

Signed by the abovenamed borrower and witnesses in the presence of the (Signed)

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 the Revenue Divisional Officer
Tahsildar
 Deputy Tahsildar
 of (Name) 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.
Tahsildar

Date 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
Deputy Tahsildar

of _____ 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.
Tahsildar
 Date _____ 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
 borrower in the loan order No. _____
 dated _____ of 19 _____

* Here enter the name of the borrower.

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)

AMENDMENT TO RULES.

Fort St. George Gazette —January 10th, 1939.

Fort St. George Dec. 22nd 1938 (G.O. No. 3283 Revenue).

After rule XIV of the said rules the following rule shall be inserted namely:—

“XIV—A. If at any time the Collector is satisfied that a person has obtained a loan to which he was not entitled under these rules by fraud or misrepresentation or by collusive action with his creditor or creditors he may, after recording in writing the grounds for his decision, pass an order directing recovery forthwith of the entire loan or, as the case may be, of the entire balance of the loan, together with interest and costs as arrears of land revenue.”

THE MADRAS DEBT CONCILIATION ACT, 1936.

(MADRAS ACT XI OF 1936)

[Passed on the 28th April 1936.]

An Act 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 ;

AND WHEREAS the previous sanction of the Governor-General 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 Madras Debt Conciliation Act, 1936.

(2) It extends to the whole of the Presidency of Madras.

* (3) It shall come into force on such date as the Provincial Government may, by notification, appoint.

Definitions.

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

(a) 'landholder' means a person holding land under a Sanad-i-Milkiyat-i-istimrar, a zamindar, shoratriyamdar, jagirdar or inamdar, a person paying the land revenue under Government, and a holder of any land under ryotwari settlement or in any way subject to the payment of revenue direct to Government ;

(b) 'tenant' means a ryot having a permanent right of occupancy in his holding and includes a kanamdar in Malabar and a 'Mulgeni' tenant in South Kanara ;

(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 ;

* This Act came into force on the 1st January 1937.

(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, land revenue or anything recoverable as an arrear of land revenue, rent as defined in the Madras Estates Land Act (Madras Act I of 1908), 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 an occupancy tenant or landholder 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 Act ;

(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.

Establishment and constitution of boards.

3. (1) The Provincial Government may establish a Debt Conciliation Board for any district or part of a district. Such board shall consist of a chairman and two members appointed by the Government. The chairman shall be a person who holds or has held an office not lower in rank than that of a Subordinate Judge or a Deputy Collector. One at least of the members shall be a non-official. The Provincial 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 Provincial 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 the Act.

Application for settlement between debtor and his creditors.

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 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 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 Act, be transferred to and dealt with by one board as one single application.

Verification of application.

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

Particulars to be stated in application.

6. (1) Every application made 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) 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.

Rejection of application.

7. The application shall be rejected if it does not comply with any of the requirements mentioned in sections 5 and 6.

The rejection of an application under this section shall not preclude the applicant from making a fresh application.

Procedure on 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.

(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.

Dismissal of application.

9. An application under section 4 may be dismissed by the board at any stage of the proceedings—

(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 Act ; or

(c) if the application includes a claim which, in the opinion of the board, is collusive and intended to defraud any creditor.

Notice calling upon creditors to submit statements of debts.

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 Code of Civil Procedure (Act V of 1908), for signing and verifying

claims and shall be submitted to the board 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) 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.

Procedure on submission of statement of debts.

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.

(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.

Power of board to decide dispute as to the existence or amount of debts or assets.

12. (1) The board shall call upon the debtor and each creditor respectively to explain his case regarding each debt.

(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.

Power of board to require attendance of persons and production of documents.

13. (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 (Act V of 1908).

(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.

Agreement of amicable settlement ; its registration and effect.

14. (1) 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 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 :

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.

(2) An agreement made under sub-section (1) shall, within thirty days from the date of the making thereof, be registered under the Indian Registration Act (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 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 88 of the Indian Registration Act (XVI of 1908).

(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 Act shall apply in respect of the application accordingly.

Properties exempt from attachment not to be taken into account.

15. In any scheme of the debt conciliation under this Act such properties as are exempt from attachment under the Code of Civil Procedure (Act V of 1908) shall not be taken into account and shall be left to the judgment debtor free from any liability for his debts.

Maximum amount allowable in satisfaction of a debt.

16. In any scheme of debt conciliation under this Act, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than twice the amount of the principal and if the debt was incurred before the first day of June 1933 twice the amount due on the said date.

Power of board to dismiss application.

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.

Grant of certificate in respect of certain debts.

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 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 rates 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.

Power of court to disallow cost or interest.

(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 6 per cent per annum on the principal amount due on the date of such certificate.

Decrees in suits after registration of agreement not to be executed.

(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 Code of Civil Procedure (Act V of 1908), 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.

Bar of civil suits.

19. No civil court shall entertain—

- (a) any suit in respect of—
 - (1) any matter pending before a board, or
 - (2) the validity of any procedure or the legality of any agreement made under this Act, or

(3) the recovery of any 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 any 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.

Avoidance of certain transfers of debtor's property.

20. 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 pursuance of such application has been fully carried out shall be voidable by order of the board on application by the creditors so defeated or delayed.

Alienation made with sanction of board not to be considered as a fraudulent preference.

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 Presidency Towns Insolvency Act (III of 1909), and the Provincial Insolvency Act (V of 1920), nor shall such alienation be voidable under section 53 of the Transfer of Property Act (IV of 1882).

Bar of appeal or revision.

22. No appeal or application for revision shall lie against any order passed by a board.

Power of board to review its order.

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:

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 parties before board.

24. In any proceedings before a board any party may appear in person or with the permission of the board by a legal practitioner or an agent authorized in writing.

Stay of pending suits or other proceedings.

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.

Report by board regarding sums due to Government.

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 on account of loans advanced under the Agriculturists' Loans Act (XII of 1884), or the Land Improvements Loans Act (XIX of 1883), or otherwise, the board shall report this fact to the Collector.

Computation of period of limitation for suits and proceedings.

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 Act, 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.

(2) The period during which proceedings under this Act 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 48 of the Code of Civil Procedure (Act V of 1908), or under the Indian Limitation Act (IX of 1908).

Members of the board deemed to be public servants.

28. The members of a board shall be deemed to be public servants within the meaning of the Indian Penal Code (Act XLV of 1860).

Power to make rules.

29. (1) The Provincial Government may make rules to carry out all or any of the purposes of this Act and not inconsistent therewith.

(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 Act 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 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 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 Act shall be subject to the condition of the rules being made after previous publication.

(4) 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 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.

V(a)

THE MADRAS DEBT CONCILIATION RULES, 1937.

G.O. No. 3692, Home, dated 17th December 1936.

In pursuance of sub-section (3) of section 1 of the Madras Debt Conciliation Act, 1936 (Madras Act XI of 1936), the Governor in Council is hereby pleased to appoint January the first Nineteen hundred and thirty-seven as the date on which the said Act shall come into force.

In exercise of the powers conferred by section 29 of the Madras Debt Conciliation Act, 1936 (Madras Act XI of 1936), the Governor in Council is hereby pleased to make the following rules:—

Rules.

1. (1) These rules may be called the Madras Debt Conciliation Rules, 1937.

(2) They shall come into force on the 1st January 1937.

2. In these rules,—

(a) "the Act" means the Madras Debt conciliation Act, 1936 (Madras Act XI of 1936);

(b) "Board" means a Board established under the Act;

(c) "Collector" means the Collector of the district within whose jurisdiction the Board is established; and

(d) "section" means a section of the Act.

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 Board of Revenue through the Collector of the district if there is only one Board in the district or if there is more than one Board to the Collector concerned, and the Board of Revenue or the Collector, as the case may be, shall transfer the application to another Board for disposal.

5. (1) The headquarters of a Board shall be the headquarters of the officer who is its chairman or if the chairman is a non-official, such place as may be fixed by the Board of Revenue.

(2) The Board shall ordinarily sit for the transaction of its business at its headquarters, 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 Act shall be presented at the office of the Board, during office hours, by the applicant in person or by an agent authorized by him in writing, to the Chairman or, during his absence, to the person authorized 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 Collector of the district, if the Boards are within a district, and the Board of Revenue, if they are in different districts, 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 Collector of the district or the Board of Revenue, as the case may be, 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 twelve annas.

10. The proceedings of the Board shall be recorded in English.

11. In making an enquiry under the Act, 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 Collector's office, 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 Act 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 Act 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 authorized agent ; or

(c) if the address of such person is known to the Board, by sending it to him by post 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 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 Circular Orders, and

(b) in cash, allowances for travelling to and attending at Court in accordance with the scales laid down in rule 50 of the Civil Rules of Practice and Circular Orders.

(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 in Order No. 173 of the Standing Orders of the Board of Revenue as for the time being in force 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 calendar year, the registers and books specified in sub-rule (1), after the entries relating to pending cases

*Not printed.

have been transcribed into new registers and books, and the records relating to completed proceedings of cases shall be transferred—

(a) if the headquarters of the Board is at the district headquarters, to the office of the Collector ; and

(b) in other cases, to the office of the Revenue Divisional Officer within whose jurisdiction the headquarters of the Board is situated.

(3) The registers, books and records aforesaid shall be preserved for the periods specified below against each:—

(a) Registers and book—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 Collector to the Board of Revenue, a monthly progress return in Form No. VI* in Appendix I to these rules.

25. Each Board shall submit not later than the 1st August every year to the Collector for submission to the Board of Revenue, an annual report on the working of the Act during the previous fasli year. Such report shall indicate—

(i) progress of work and results achieved,

(ii) difficulties experienced in working the Act ;

(iii) amendments, if any, that appear to be necessary to the Act or the rules ; and

(iv) such statistics or other information as may be prescribed, from time to time, by the Board of Revenue.

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 connexion with his duties as such Chairman or member at the following rates :—

Journeys by rail—One second-class and one third-class fare.

Journeys by road—Annas four a mile.

Daily allowance for halts—Rupees three and annas eight.

The drawal of allowances will be subject to the conditions laid down in Part III of the Manual of Special Pay and Allowances.

*Not printed.

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 Collector shall be the controlling officer empowered to countersign the travelling allowance bills of the chairman and members of a Board.

29. The Local 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 Collector who shall be subject to the control of the Board of Revenue and the Local Government. The Collector shall appoint, punish and generally control the staff of the Board but may, with the concurrence of the Board of Revenue, 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 Collector 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 Board of Revenue 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 Code of Civil Procedure, 1908, 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 Madras Debt Conciliation Act, 1936.

To

The Debt Conciliation Board,
.....taluk,.....district.

Under section 4(1) of the Madras Debt Conciliation Act, 1936,
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 owed 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—ryotwari, inam estate ryoti, etc., with classification as wet, dry or garden.	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 Madras Debt Conciliation Act, 1936.

To
The Debt Conciliation Board,
.....taluk,district.

Under section 4 (2) of the Madras Debt Conciliation Act, 1936, I.....son of....., caste....., resident of, taluk, beg to apply for the settlement of my claims againstwho 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 Act 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 $\frac{8 (2)}{8 (3)}$ of the Madras Debt Conciliation Act, 1936.

Notice is hereby given to..... that an application under section $\frac{4 (1)}{4 (2)}$ of the aforesaid Act has been submitted for the settlement of the debts of.....and will be examined by the Board together with any objections that may be preferred by any person interested atato'clock o..... the day of193

Dated the of 193 .

(Seal of the Board.)

.....
Signature of the Chairman,
Debt Conciliation Board
or

some other person authorized in this behalf.
District.

FORM No. IV.

Form of notice under section 10 (1) of the Madras Debt conciliation Act, 1936.

Whereasson of, caste of taluk $\frac{\text{debtor}}{\text{creditor}}$ has submitted an application under section 4 of the aforesaid Act 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, $\frac{\text{you as one of the creditors}}{\text{all the creditors}}$ to whom the said debtor is indebted are hereby required to submit to the Board a statement in writing on or before theat the Board's office at.....of all debts owed to $\frac{\text{you}}{\text{them}}$ 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 Act 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 Act, 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 of193when you should appear before
 the Board.

Dated the day of 193 .

(Seal of the Board.)

.....
 Signature of the Chairman,
 Debt Conciliation Board

or

some other person authorized in this behalf.
 District.

FORM No. V.

Form of certificate under section 18 (1) of the Madras Debt Conciliation Act, 1936.

This is to certify that during proceedings No.of
 under the Madras Debt Conciliation Act, 1936, 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 Act.

(Here enter particulars.)

Dated the day of 193 ..
(Seal of the Board.)

Signature of the Chairman,
Debt Conciliation Board
District.

Debt Conciliation Rules (amendments).

June 21st. 1938. p. 921. *Part I. Fort St. George Gazette.*

(1) For the words "Local Government", wherever they occur, the word "Government" shall be substituted; and

(2) In clause (c) the word "and" occurring at the end shall be omitted; and (ii) clause (d) shall be relettered as clause (e) and the following shall be inserted as clause (d) namely:—

"(d) 'Government' means the Government of Madras; and"

July 5th. 1938. p. 979. *Part I. Fort St. George Gazette.*

In rule 21, sub-rule (2) shall be re-numbered as sub-rule (3) and the following shall be inserted as sub-rule (2), namely:—

"2. Every agreement made under sub-section (1) of S. 14 shall be registered in the office of the Sub-Registrar within whose sub-district the headquarters of the Chairman of the Board is situate."

APPENDIX VI *

IS THE MADRAS AGRICULTURISTS' RELIEF ACT INTRA VIRES OF THE POWERS OF THE PROVINCIAL LEGISLATURE ?

The question was decided by a Full Bench of the Madras High Court consisting of the Chief Justice, Justice Wadsworth and Justice Krishna-swami Iyengar.

The following is the full text of the judgment :—

Under the provisions of Order XLVI, rule 1 of the Code of Civil Procedure, the District Munsif of Guntur, the District Munsif of Cuddalore and the Subordinate Judge of Cocanada have referred to this Court, for decision, questions with regard to the validity of the Madras Agriculturists' Relief Act, 1938, an Act passed by the Madras Legislature to provide for the relief of indebted agriculturists in the Province. The Act provides for the scaling down of debts and interest and for remission of arrears of rent. All the references raise the questions whether the provisions of the Act relating to the scaling down of debts and interest are *ultra vires* the powers of the Provincial Legislature in that these provisions are repugnant to the provisions of the Negotiable Instruments Act, 1881. The reference by the District Munsif of Guntur couples the Usurious Loans Act, 1918 with the Negotiable Instruments Act, and the reference by the District Munsif of Cuddalore raises the further question whether the Act is *ultra vires* because its provisions conflict with the provisions of Hindu law which impose upon a son the pious obligation to discharge his father's debts, lawfully contracted, and liability on a member of a joint family to pay out of his share of the family property a debt incurred by the manager of the family for a family necessity. The references have been heard together and it will be convenient to answer them in one judgment.

RELEVANT SECTIONS OF THE CONSTITUTION ACT

The objections to the Madras Agriculturists' Relief Act are based on the provisions of the Government of India Act, 1935, and the questions referred will be more readily understood if the relevant sections of the latter enactment are first stated. Section 99 of the Government of India Act provides that, subject to the provisions of the Act, the Federal Legislature may make laws for the whole or any part of British India or for any Federated State, and a Provincial Legislature may

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make laws for the Province or for any part thereof. Section 100, sub-section (1) confers upon the Federal Legislature exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule to the Act, (the "Federal Legislative List"). Sub-section (2) provides that, notwithstanding anything in sub-section (3), the Federal Legislature, and, subject to sub-section (1) a Provincial Legislature also, have power to make laws with respect to any of the matters enumerated in List III in the Schedule, (the "Concurrent Legislative List.") Sub-section (3) states that subject to the two preceding sub-sections, the Provincial Legislature has, and the Federal Legislature has not, power to make laws for a Province or any part thereof with respect to any of the matters enumerated in List II (the "Provincial Legislative List"). The Provincial Legislature is, therefore, given exclusive power to legislate with regard to the matters specified in List II. Section 107 deals with the position when there is inconsistency between a Federal law and a Provincial law, or between an "existing Indian law" and a Provincial law. Sub-section (1) of this Section reads as follows:—

"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."

An "existing Indian law" is defined in Section 311. It is not necessary to set out the whole of the definition. Stated shortly, it means any law which was lawfully passed before the commencement of Part III of the Act. Part III relates to Governors' Provinces and deals *inter alia* with the constitution of Provincial Legislatures. It came into force on the 1st April, 1937.

Sub-Section (2) of Section 107 states: "Where a Provincial law with respect to one of the matters enumerated in the Concurrent Legislative List contains any provision repugnant to the provisions of an earlier Federal law or an existing Indian law with respect to that matter, then, if the Provincial law, having been reserved for the consideration of the Governor-General or for the signification of His Majesty's pleasure, has received the assent of the Governor-General or of His Majesty, the Provincial law shall in that Province prevail, but nevertheless the Federal Legislature may at any time enact further legislation with respect to the same matter".

Reading sub-sections (1) and (2) of Section 107 together the effect is this. A Federal law always over-rides a Provincial law unless the Provincial law is in respect of one of the matters enumerated in the Concurrent Legislative List and has been reserved for the consideration of the Governor-General or for the signification of His Majesty's pleasure and has received the assent of the Governor-General or of His Majesty, in which case the Provincial law prevails in the Province until the Federal Legislature chooses to legislate further. The position is the same in respect of an "existing Indian law." An existing Indian law with respect to a matter enumerated in the Concurrent Legislative List over-rides a Provincial law unless the Provincial law has been reserved and has received the assent under sub-section (2). The power of the Federal Legislature, to legislate further when a Provincial law has been reserved and has received the assent is subject to the proviso that no Bill or amendment shall be introduced without the previous sanction of the Governor-General. The respective legislative lists are comprehensive, but Section 104 empowers the Governor-General to assign to the Federal Legislature or to a Provincial Legislature a matter which has not been enumerated.

To the Federal Legislature is given the power of legislating with regard to "Cheques, bills of exchange, promissory notes and other like instruments." This is paragraph 28 of the Federal Legislative List. To the Provincial Legislature is given the power of legislating with regard to "agriculture" (paragraph 20). The word "agriculture" is used in a wide sense and it is expressly stated that it includes agricultural education and research, protection against pests and prevention of plant diseases, improvement of stock and prevention of animal diseases, veterinary training and practice, pounds and the prevention of cattle trespass. The Provincial Legislature's powers also relate to "land," that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer, alienation and devolution of agricultural land, land improvement and agricultural loans (paragraph 21) and money-lending and money-lender (para 27). Included in the Concurrent Legislative List are "contracts, including partnership, agency, contracts of carriage and other special forms of contract, but not including contracts relating to agricultural land" (Paragraph 10).

THE MADRAS DEBT RELIEF ACT

We will now turn to the provisions of the Madras Agriculturists' Relief Act. Section 7 of the Act provides that notwithstanding any law, custom, contract or decree of court to the contrary, all debts payable by an agriculturist at the commencement of the Act, shall be scaled

down in accordance with the provisions of Chapter II of the Act. No sum in excess of the amount as so scaled down shall be recoverable from him or from any land or interest in land belonging to him; nor shall his property be liable to be attached and sold or proceeded against in the execution of any decree against him in so far as such decree is for an amount in excess of the sum as scaled down under Chapter 11. Section 8 makes provision for the scaling down of debts incurred before the 1st October 1932. The Section states that all interests outstanding on the 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. Where an agriculturist has paid to any creditor twice the amount of the principal, whether by way of principal or interest or both, such debt including the principal shall be deemed to be wholly discharged. 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 or such portion of the principal amount as is outstanding, whichever is smaller, shall be repayable. Where a debt has been 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 sum repayable by the agriculturist under the Section. Section 9 makes provision for scaling down of debts incurred on or after the first October, 1932. In such cases, interest shall be calculated upto the commencement of the Act at the rate applicable to the debt under the law, custom, contract, or decree of court, under which it arises or at 5 per cent per annum simple interest, whichever is less and credit shall be given for all sums paid towards the interest and only such amount as is found outstanding for interest thus calculated shall be deemed payable together with the principal amount or such portion of it as is due. Any part of the debt, which is found to be 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 had been contracted prior to the first October 1932, shall be dealt with under the provisions of Section 8. Section 12 states that all debts, which have been scaled down under the provisions of the Act shall, so far as any sum remains payable thereunder, carry from the date up to which they have been scaled down, interest on the principal amount due on that date at the rate previously applicable under law, custom, contract or otherwise; provided that it shall not in any case exceed $6\frac{1}{4}$ per cent per annum simple interest. Under Section 13, in any proceeding for

recovery of a debt, the Court shall scale down all interest on any debt incurred by an agriculturist after the commencement of the Act, so as not to exceed a sum calculated at $6\frac{1}{4}$ per cent per annum simple interest, but power is reserved for the Provincial Government to alter and fix any other rate of interest from time to time.

PROMISSORY NOTES

The Madras Agriculturists' Relief Act makes no difference between a simple contract debt and a debt due on a promissory note or other negotiable instruments. Therefore, debts arising on negotiable instruments are within the purview of the Act. If debts on promissory notes were excluded, the Act, would, to a very large extent, be rendered nugatory, the practice of lending money on promissory notes being so widespread. It is said that as the Negotiable Instruments Act contemplates the payment of the full amount due on a negotiable instrument, the Provincial Legislature has no power to enact a measure, which cuts down the amount payable on the negotiable instrument. In this connection, our attention has been drawn to the provisions of Sections 32, 78, 79 and 80 of the Negotiable Instruments Act. Section 32 states that, in the absence of a contract to the contrary, the maker of a promissory note and the acceptor, before maturity of a bill of exchange, are bound to pay the amount thereof at maturity according to the apparent term of the note or acceptance respectively, and the acceptor of the bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand. Section 78 says that, subject to the provisions of Section 82, which relates to the discharge from liability, payment of the amount due on a promissory note, bill of exchange or cheque must in order to discharge the maker or acceptor, be made to the holder of the instrument. Section 79 requires that when interest at a specified rate is expressly made payable on a promissory note or bill of exchange interest shall be calculated at a rate specified on the amount of the principal money due thereon, from the date of the instrument, until tender or realisation of such amount, or until such date after the institution of a suit to recover such amount as the court directs, and Section 80 states that interest shall be calculated at 6 per cent per annum where no interest is specified in the instrument.

DECISIONS UNDER THE CANADIAN ACT

The first question which falls for decision is whether the Madras Agriculturists' Relief Act is a measure which is directly within the exclusive powers conferred on the Provincial Legislature. The Government of India Act, 1935, has been drafted in the light of the experience gained by the working of the Canadian and Australian con-

stitution, particularly by the working of the Canadian constitution which is governed by the British North America Act, 1867. The British North America Act differs in an important respect from the Government of India Act in that it contains no Concurrent Legislative List, apart from the two subjects mentioned in Section 95. The powers of the Federal Parliament in Canada are defined in Section 91 of the Act and the powers of the Provincial Legislatures in Section 92. But the fact that there is a Concurrent Legislative List in the Indian Act does not affect the principles which apply in deciding what is within the exclusive power of the Federal Legislature and what is within the exclusive power of a Provincial Legislature. There have been numerous cases before the Privy Council relating to the British North America Act and the principles stated by the Judicial Committee in those cases have direct application when the Court has to consider whether a particular Act is or is not *ultra vires* the powers of a Provincial Legislature. However carefully an Act is drawn it is not possible to avoid questions arising with regard to the powers of the respective legislatures, but as was stated in the *Citizens Insurance Company of Canada vs. William Parsons* it could not have been the intention that conflict should exist and in order to prevent such a result, the two Sections must be read together, and the language of one interpreted, and, where necessary, modified, by that of the other. In this way, as was further pointed out, it may, in most cases, be found possible to arrive at a reasonable and practical construction of the language of the Sections, so as to reconcile the respective powers they contain, and give effect to all of them. The fact that an Act of a Provincial Legislature may in some respects trench upon a Federal subject is not the deciding factor. In deciding whether a particular Act is *ultra vires* the powers of a Legislature the Court has to have regard to "the true nature and character of the legislation in the particular instance in order to ascertain the class of subjects to which it really belongs."—*Charles Russell vs. The Queen*. In *Archibald Hodge vs. The Queen*, the Privy Council, in deciding whether an Act passed by the Legislature of the Province of Ontario and known as "The Liquor Licence Act of 1877" was within the powers of the Provincial Legislature, said that subjects which in one aspect and for one purpose fall within Section 92 of the British North America Act may in another aspect and for another purpose fall within Section 91. In other words, in one aspect and for one purpose a subject may be within the powers of the Federal Parliament, while in another aspect and another purpose it may fall within the powers of a Provincial Legislature. This statement of the law was emphasised in *John Deere Plow Company, Ltd., vs. Wharton* where Lord Haldane, in delivering the judgment of the Board observed:—"It must be borne in mind" in construing the two Sections, that matters which in a special aspect and for a particular pur-

pose may fall within one of them may in a different aspect and for a different purpose fall within the other. In such cases the nature and scope of the legislative attempt of the Dominion, or the Province, as the case may be, have to be examined with reference to the actual facts if it is to be possible to determine under which set of powers it falls in substance and reality."

LORD ATKIN'S OBSERVATIONS

The House of Lords expressed the same opinion in *Gallagher vs. Lyn* a case under the Government of Ireland Act 1920. The Act conferred upon the Parliament of Northern Ireland the power to make laws for the peace, order and good Government of Northern Ireland with certain limitations. The Act expressly provided that the Parliament of Northern Ireland should not have power to make laws in respect of "trade with any place out of that part of Ireland within their jurisdiction, except so far as trade may be affected by the exercise of the powers of taxation given to the said Parliaments, or by regulations made for the sole purpose of preventing contagious disease, or by steps taken by means of inquiries or agencies out of that part of Ireland within their jurisdiction for the improvement of the trade of that part or for the protection of traders of that part from fraud." The Parliament of Northern Ireland passed an Act called the Milk and Milk Products Act (Northern Ireland) 1934, which had the effect of putting an end to the milk trade between the farmers of Donegal which is in the Free State and customers in Derry which is in Northern Ireland. It was said that the Act was an Act in respect of trade outside Northern Ireland. The House of Lords refused to accept this contention holding that it was a law for the peace, order and good government of Northern Ireland in respect of precautions taken to secure the health of the inhabitants of Northern Ireland by protecting them from the dangers of an unregulated supply of milk. Lord Atkin observed :—

"It is well established that you are to look at the 'true nature and character of the legislation' *Russel vs. The Queen* 'the pith and substance of the legislation.' If, on the view of the statute as a whole, you find that the substance of the legislation is within the express powers, then it is not invalidated if incidentally it affects matters which are outside the authorised field. The legislation must not, under the guise of dealing with one matter in fact encroach upon the forbidden field. Nor are you to look only at the object of the legislators? An Act may have a perfectly lawful object for example to promote the health of the inhabitants, but may seek to achieve that object by invalid methods, for example, a direct prohibition of any trade with a foreign country. In other words, you may certainly consider the clauses of an Act to see whether they are

passed 'in respect of' the forbidden subject. In the present case any suggestion of an indirect attack upon trade is disclaimed by the appellant. There could be no foundation for it. The true nature and character of the Act, its pith and substance, is that it is an Act to protect the health of the inhabitants of Northern Ireland; and in those circumstances, though it may incidentally affect trade with County Donegal, it is not passed 'in respect of' trade, and is therefore not subject to attack on that ground."

The passage (which we have quoted from the judgment of Lord Atkin which was concurred in by Lord Thankerton, Lord Macmillan and Lord Wright) was quoted *in extenso* in the judgment of the Privy Council in *Shannon vs. Lower Mainland Dairy Products Board*, a case which related to the powers of the British Columbia Legislature to set up a central marketing board to establish or approve schemes for the control and regulation within the province of the transportation, packing storage and marketing of natural products, to constitute marketing boards to administer such schemes and to vest in them powers considered necessary or advisable to exercise those functions including the powers to fix and collect licence fees. It was held that the Act did not encroach upon the powers of the Federal Legislature to deal with the regulation of trade and commerce and the raising of money by taxation. The court has therefore to look to the Madras Agriculturists' Relief Act to see whether it is in substance within the express powers of the Provincial Legislature. If it is, it is not invalidated, because incidentally it may affect matters which are within the Federal field.

DEBT RELIEF ACT 'INTRA VIRES'

The Madras Agriculturists' Relief Act 1938, was placed on the statute book because the Madras Legislature considered that it was expedient to provide relief to indebted agriculturists in the Province and the provisions of the Act are all directed to the attainment of this object. The Court is not concerned with the policy of the Act, but with the effect of its provisions. That agriculturists in the Province are heavily indebted is a matter of common knowledge and the Legislature decided that the situation demanded that relief should be given to them in the form of the scaling down of their debts. Agriculturists who are overburdened with debt cannot cultivate their lands to the best advantage. They have not the means, and there is a risk of their lands passing into the hands of non-agriculturists to the detriment of Agriculture. Therefore the Act is one which does relate to agriculture and consequently relates to a subject reserved for the Provincial Legislature. But the matter does not rest there. The Act is certainly one which relates to money lending to agriculturists and money lending is another subject which is reserved

for the Provincial Legislature. The power to deal with money lending must carry with it a power to limit the amount to be recovered by the money lender. This has not been seriously challenged. The main attack on the Act has been based on the fact that its scaling down provision are repugnant to the Negotiable Instruments Act in that they do not allow the full amount due on a promissory note to be recovered from an agriculturist. But we do not regard the Agriculturists Relief Act, as really affecting the principles embodied in the Negotiable Instruments Act. Negotiation of a promissory note is not prohibited nor is it said that a maker or an endorser shall not be liable. The only effect of the Madras Agriculturists' Relief Act so far as negotiable instruments are concerned is to reduce liability where the maker or the endorser is an agriculturist. In providing for this the Provincial legislature was acting in the interests of agriculture and regulating money lending to agriculturists. It could never have been the intention of Parliament in conferring a general power on the Federal Legislature to legislate with regard to negotiable instruments to reduce the power of Provincial Legislature to deal with subjects within its exclusive control. When examined the Madras Agriculturists' Relief Act is in substance within the express powers of the Madras Legislature and the fact that in particular cases it may operate to reduce liability on contracts evidenced by negotiable instruments cannot affect its validity. The authorities which we have quoted are definite on the point.

Even if the matters dealt within the Madras Agriculturists' Relief Act do not come within the exclusive powers of the Provincial Legislature the Act can be supported on the ground that it relates to contracts falling within the Concurrent Legislative list. The indebtedness of the agriculturists arises out of contracts and contract of the nature contemplated by the Concurrent Legislative List. Regarding the Act as an Act dealing with a matter falling within the Concurrent Legislative List, Section 107 of the Government of India Act comes into operation. The Negotiable Instruments Act is an "existing Indian law" within the meaning of Section 107. The Madras Agriculturists' Relief Act was reserved for the consideration of the Governor-General under the provisions of Section 107 (2) and received his assent. Therefore, even if the Act does not come within the exclusive powers of the Legislature, its provisions must prevail in the Province by virtue of the provisions of Section 107 of the Government of India Act, unless and until the Federal Legislature thinks fit to legislate in respect of the same matter. But by virtue of the proviso to the Section this cannot happen without the previous sanction of the Governor-General.

The argument based on the Usurious Loans Act stands or falls with the argument based on the Negotiable Instruments Act. If the Provincial Legislature had the power to pass the Madras Agriculturists' Relief Act

as being an Act dealing with matters in the Provincial Legislative List—and we hold that it had—the fact that it affects, so far as agriculturists are concerned, the discretion given to the court by the Usurious Loans Act can make no difference to its validity. But in any event the Madras Agriculturists' Relief Act, here again finds support from the provisions of Section 107 of the Government of India Act. In the course of the argument our attention was drawn to the decision of the Patna High Court in *Sadanand vs. Aman Khan* (7). We have been given to understand that this decision is being made the subject matter of appeal to the Federal Court, and in these circumstances we do not consider it fitting that we should discuss the views expressed in the judgment delivered by the learned Judges who decided that case. It is sufficient to say that in deciding the references now before us we have considered the Patna decision.

HINDU LAW NOT AFFECTED

The only question which remains to be considered is whether the Madras Agriculturists' Relief Act is *ultra vires* because it conflicts with the provisions of the Hindu Law imposing on a son the pious obligation to discharge his father's debts and liability on a member of a joint family to pay out of his share of the family property debts incurred by the manager of the family for family necessity. The argument here is that the Government of India Act does not authorise either the Federal Legislature or the Provincial Legislature to legislate on matters relating to Hindu Law and that therefore, until the Governor-General under the powers conferred upon him under Section 104 of the Act has assigned to the Federal Legislature or the Provincial Legislature power to enact laws with regard to Hindu Law, neither Legislature can pass an Act which alters the personal law of the Hindus. The Provincial Legislature has power to legislate with regard to contract and no exception is made in respect of contracts entered into by Hindus. There is no Federal or "existing Indian Law" which stands in the way and even if there were, the sanction of the Governor-General given under Section 107 (2) of the Government of India Act would remove it. The Provincial Legislature, had, therefore, full power to legislate with regard to contracts entered into by Hindus and to reduce their contractual obligations. A Hindu son cannot be made liable for more than what his father is liable for and in cutting down the father's liability, the Legislature is not interfering with any principle of Hindu Law. The same remarks apply in the case of manager of family contracting a debt for family necessity. The members of the family are liable to the extent of their interests in the family property, for so much of the debt as is lawfully recoverable. The manager is in the position of an agent and the Provincial Legislature has under the Concurrent Legislative List power to legislate with regard to agency as well as with regard to contracts.

There is no substance in the argument that the Act operates to change the principles of Hindu Law.

For the reasons indicated, we, hold that the Madras Agriculturists' Relief Act is *intra vires* of the powers of the Provincial Legislature and the references will be answered in the sense indicated in this judgment. The costs of the reference will in each case be made costs in the case.

We grant a certificate in each case under Section 205 of the Government of India Act, 1935, (Section 205 relates to appellate jurisdiction of the Federal Court in appeals from High Courts in British India).

APPENDIX III—(Continuation)

DEBT RELIEF ACT AT WORK.

The following statement shows the working of the Madras Agriculturists' Relief Act, 1938 for the months of September and October, 1938, and during the eight months ending with October, 1938.

Description of items.	PERIOD.		
	September, 1938.	October, 1938.	8 months ending with October, 1938.
Number of cases pending at the beginning of the period.	19,100	25,556	516
Number of cases received during the period.	15,546	6,889	76,884
Number of cases to which the Act was applied <i>suo motu</i> by courts.	30	57	227
Number of cases omitted to be included in the previous month.	26	..	26
Total.	34,702	32,502	77,653
Number of cases disposed of during the period—			
UNDER SECTION 8.			
Number.	885	947	5,453
Amount involved	Rs. 5,19,152 9 3	6,85,886 8 3	32,88,807 10 7
Amount as scaled down.	„ 2,86,619 2 10	3,30,034 14 8	16,85,909 13 3
UNDER SECTION 9.			
Number.	771	605	4,545
Amount involved.	Rs. 1,77,609 14 11	1,70,814 1 9	10,92,197 12 7
Amount as scaled down.	„ 1,29,571 8 3	1,24,485 11 1	7,86,875 3 9
UNDER SECTION 13.			
Number.	57	40	448
Amount of interest involved.	Rs. 6,571 0 0	5,947	43,619 5 3
Amount of interest as scaled down.	„ 4,317 8 0	2,298	16,740 4 4
UNDER SECTION 18 (1).			
Number.	85	78	923
Amount of costs involved.	Rs. 10,030 12 0	3,915 8 6	92,555 0 9
Amount of costs as scaled down.	„ 6,671 10 0	2,390 3 4	57,213 14 4
UNDER SECTION 19.			
Number.	3,610	3,074	13,707

Description of items.	PERIOD.		
	September, 1938.	October, 1938.	8 months ending with October, 1938.
Amount as originally decreed.	Rs. 29,59,336 1 5	25,17,110 12 11	1,01,19,133 12 1
Amount as scaled down in the amended decree.	„ 14,90,170 10 5	12,82,628 4 2	51,38,322 6 5
UNDER SECTION 20.			
Number.	3,000	2,372	24,117
UNDER SECTION 21.			
Number.	33	41	172
Amount involved.	Rs. 12,432 2 0	21,474 1 0	63,755 4 0
Amount as scaled down.	„ 9,271 0 0	14,908 0 0	42,914 7 11
UNDER SECTION 22.			
Number.	4	2	12
Amount refunded.	Rs. 14 2 0	36	290 2 0
UNDER SECTION 23.			
Number.	384	211	2,908
Total amount involved in applications disposed of under Sections 8, 9, 13, 18(1), 19 and 21 during the period.	Rs. 36,85,132 7 7	34,05,147 15 5	1,47,00,068 13 3
Total amount as scaled down during the period.	„ 19,26,621 7 6	17,56,745 1 3	77,27,976 2 9
Total amount of reduction by scaling down and its percentage to the amount originally due.	„ 17,58,511 0 1 47·7%	16,48,402 14 2 48·4%	69,72,092 11 3 47·4%
Total number of cases disposed of during the period.	8,829	7,370	52,285
Add number of cases disposed of under Section 15 of the Act.	310	1,011	1,438
Number of cases disposed of otherwise than under the Act.	21	18	120
Deduct number of cases disposed of under more than one section of the Act.	14	28	321
Net number of cases disposed of during the period.	9,146	8,371	53,522
Number of cases pending at the close of the period.	25,556	24,131	24,131

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