



MADRAS LEGISLATIVE ASSEMBLY

**THE MADRAS INDEBTED AGRICULTURISTS
(REPAYMENT OF DEBTS) BILL, 1955**

**(REPORT AND PROCEEDINGS OF THE JOINT
SELECT COMMITTEE)**

FEBRUARY 1955

*Legislature (Assembly) Secretariat
Madras*

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THE MADRAS INDEBTED AGRICULTURISTS (REPAY-
MENT OF DEBTS) BILL, 1955.

Composition of the Joint Select Committee.

ASSEMBLY.

- 1 The Hon. Sri M. A. MANICKAVELU NAICKER (*Chairman*).
- 2 The Hon. Sri C. SUBRAMANIAM.
- 3 Sri K. RAJARAM.
- 4 Sri M. MUNI REDDI.
- 5 Sri N. MOUNAGURUSWAMI NAIDU.
- 6 Sri K. ISHWARA.
- 7 Sri A. APPU.
- 8 Sri V. R. NAGARAJAN.
- 9 Sri V. C. CHINNASWAMY.
- 10 Sri T. C. NARAYANAN NAMBIAR.
- 11 Sri C. KANDASWAMY.
- 12 Sri K. M. SEETHI SAHIB.
- 13 Sri M. P. SUBRAMANIAM.
- 14 Sri P. KANDASWAMY GOUNDER.
- 15 Sri M. MANICKASUNDARAM.
- 16 Dr. K. B. MENON.

COUNCIL.

- 17 The Hon. Sri M. BHAKTAVATSALAM.
- 18 Sri P. P. UMMER KOYA.
- 19 Srimathi JOTHI VENKATACHELLUM.
- 20 Sri S. P. SIVASUBRAMANIA NADAR.
- 21 Sri T. PURUSHOTHAMA MUDALIAR.
- 22 Sri A. GAJAPATHY NAYAGAR.
- 23 Sri K. BALASUBRAMANIA IYER.
- 24 Sri V. V. RAMASWAMY.

SECRETARIAT.

- Sri R. V. KRISHNA AYYAR—*Secretary*.
Sri T. HANUMANTHAPPA—*Joint Secretary*.

REPORT OF THE JOINT SELECT COMMITTEE ON THE
MADRAS INDEBTED AGRICULTURISTS (REPAY-
MENT OF DEBTS) BILL, 1955 (L.A. BILL No. 2 OF
1955).

To

THE HONOURABLE THE LEGISLATIVE ASSEMBLY,
MADRAS.

The Joint Select Committee appointed to consider the Madras Indebted Agriculturists (Repayment of Debts) Bill, 1955 (L.A. Bill No. 2 of 1955), has the honour to make the following report.

2. The Bill was published in the *Fort St. George Gazette* Extraordinary on the 9th February 1955.

3. The Joint Select Committee was appointed by resolutions of the Assembly, dated the 14th February 1955 and of the Council, dated the 15th February 1955.

4. The Joint Select Committee met in the Committee Room in the old Legislators' Hostel, Government Estate, Mount Road, on the 18th and 19th February 1955.

5. The Committee has subjected the provisions of the Bill to a careful scrutiny and as a result thereof has made the following changes in it :—

Clause 2.

Sub-clause (a).—In this sub-clause, agriculturist is defined as " a person who has an interest in any agricultural or horticultural land, etc.". This will include a simple mortgagee creditor who in the opinion of the Committee should not be entitled to the benefit of this measure. The Committee has therefore excluded him by a suitable amendment to this sub-clause.

Items (i) to (iv).—In these items the test of the various grounds of exclusion mentioned in them is fixed with reference to the year 1950–51. The Committee considers that the year should be a more proximate one and has fixed as 1952–53 instead of 1950–51.

Item (iii).—In this item, assessment to property or house tax exceeding fifty rupees per half-year in a municipality or local body is mentioned as a ground of exclusion. The Committee thinks it would be more convenient to refer to the amount of rental value of the property than to the amount of the tax assessed on it and has fixed the rental value of the property as Rs. 600 per year. The Committee has also decided that in computing this amount any building in which the debtor lives should be excluded and it has inserted necessary words to this effect.

Sub-clause (b).—Item (vi) of this sub-clause seeks to exclude from the Bill small creditors owning property not exceeding Rs. 2,000 including the principal amount of any debt or debts coming under the purview of the Bill. As this provision will lead to the raising of irrelevant issues about the extent of properties possessed by a creditor, it has been omitted altogether.

The Committee considers that as Chit Fund organizations depend for their success on the regular payment of subscriptions by the subscribers thereto and as they form an important feature of credit economy in this State, they should be exempted from the scope of this Bill. It has therefore inserted the following as a new item in the place of item (vi) omitted:—

“(vi) any liability incurred or arising under any Chit Fund Scheme.”

Clause 3.

The Committee thinks that money claims made in partition suits and suits for possession of lands in which a claim for mesne profits is also made should not come within the purview of this measure and have excluded them from this clause. In fact claims for mesne profits had been excluded from Act V of 1954 and the Committee has made a similar provision in this Bill.

As introduced, this clause provided for two conditions for the institution of suits and execution applications for the recovery of debts, viz., (1) expiry of three months from the date of the commencement of this Act, and (2) a written demand. The Committee thinks that an extended period of four months without any obligation to make a written demand would be more satisfactory and easier to work and has amended the clause accordingly. It has also made necessary consequential changes in the other clauses of the Bill.

Clause 4.

In this clause, the Committee has considered it necessary to explain what shall be deemed to be the principal amount in respect of decree debts. The Committee considers that the debtor may be permitted to pay as first instalment either interest due by him plus 1/8th of the principal amount outstanding or 1/4th of the total amount outstanding whichever is less, instead of as in the Bill only the former and has amended the Bill accordingly.

Clause 10.

The Select Committee thinks that the rules made under this measure should be laid on the table of both Houses of the Legislature and should be liable to be repealed or modified by the Legislature during the session in which they are so laid. It has made necessary amendments in the Bill in this behalf.

6. A copy of the Bill embodying the amendments specifically referred to above and other amendments made by the Committee is annexed to this report.

7. The Committee considers that the amendments made by it are not so important as to require a republication of the Bill. The Bill will not therefore be republished.

8. Dissenting minutes given by some members are appended.

M. A. MANICKAVELU NAICKER,
Chairman.

GOVERNMENT ESTATE, MOUNT ROAD, MADRAS,
19th February 1955.

* These will be printed separately.

ANNEXURE.

NOTE—The changes made are sidlined or underlined and the portions omitted are indicated by dots.

L.A. BILL No. 2 OF 1955.

A Bill to give relief to indebted agriculturists in the State of Madras.

WHEREAS it is expedient to enable the indebted agriculturists to repay their debts in easy instalments;

BE it enacted in the Sixth Year of the Republic of India as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Madras Indebted Agriculturists (Repayment of Debts) Act, 1955.

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

(3) It shall be deemed to have come into force on the 1st March 1955.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) ' agriculturist ' means a person who has an interest other than interest as a simple mortgagee in any agricultural or horticultural land not being a land appurtenant to a residential building, but shall not include—

(i) any person liable to pay land revenue (which shall be deemed to include peshkush and quit rent) exceeding one hundred and fifty rupees per annum in any year after 1952-53.

(ii) any person assessed to profession tax on income derived from a profession other than agriculture under any law governing municipal or local bodies in India on a half-yearly income of more than nine hundred rupees in any half-year after 1952-53 ;

(iii) any person assessed in any half-year after 1952-53 to . . . property or house tax on an annual rental value of rupees six hundred . . . for any half-year after 1952-53 in respect of buildings (other than a building in which he lives) or lands other than agricultural lands under any law governing municipal or local bodies in India;

(iv) any person assessed to sales tax on a total turnover of not less than twenty thousand rupees in any year after 1952-53 under the Madras General Sales Tax Act, 1939 (Madras Act IX of 1939), or under the law of any other State relating to sales tax ;

(v) any person assessed to income-tax under the Indian Income-tax Act, 1922 (Central Act XI of 1922), in any year after 1950-51 ;

(vi) a firm registered under the Indian Partnership Act, 1932 (Central Act IX of 1932), or a company as defined in the Indian Companies Act, 1913 (Central Act VII of 1913), or a corporation formed in pursuance of an Act of Parliament of the United Kingdom or of any special Indian law.

Explanation I.—Where a joint Hindu family or tarwad, tavazhi, kutumba or kavaru, is an agriculturist, every co-parcener or member of the tarwad, tavazhi, kutumba or kavaru, as the case may be, shall be deemed to be an agriculturist provided that he does not fall under any of the categories specified in sub-clauses (i) to (v).

Explanation II.—The provisions of this Act shall not apply to any person who though an agriculturist was not an agriculturist on the 1st October 1953;

(b) 'debt' means any liability in cash or kind, whether secured or unsecured, due from an agriculturist on the 1st October 1953 whether payable under a contract or decree or order of a Court, civil or revenue, or otherwise, but shall not include—

(i) any sum payable to the State or the Central Government or to any local authority;

(ii) any sum payable to any co-operative society including a land mortgage bank, registered or deemed to be registered under the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932), provided that the right of the society to recover the sum did not arise by reason of an assignment made subsequent to the 1st October 1953;

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

(iv) any liability in respect of maintenance;

(v) any liability in respect of wages or remuneration due as salary or otherwise for services rendered; or

.....
(vi) any liability incurred or arising under any Chit Fund Scheme.

Explanation I.—Where a debt has been renewed or included in a fresh document executed after the 1st October 1953 whether by the same debtor or by his heirs, legal representatives or assigns or by any other person acting on his behalf or in his interest in favour of the same creditor or his heirs, legal representatives or assigns or any other person acting on his behalf or in his interest, the amount outstanding on the 1st October 1953 and included in the document executed after the 1st October 1953 shall alone be treated as the debt for the purposes of this Act.

Explanation II.—Where a debt has been split up after the 1st October 1953 among the heirs, legal representatives or assigns

of a debtor or a creditor and fresh documents have been executed in respect of different portions of the debt, each of the different portions shall be a debt for the purposes of this Act.

3. Bar of suits and applications.—(1) No suit for recovery of a debt shall be instituted, and no application for execution of a decree for payment of money shall be made, against any agriculturist in any civil or revenue Court before the expiry of four months from the commencement of this Act

Explanation I.—Where a debt is payable by an agriculturist jointly or jointly and severally with a non-agriculturist, no suit or application of the nature mentioned in this sub-section shall be instituted or made either against the non-agriculturist or against the agriculturist before the expiry of the period mentioned in this sub-section.

Explanation II.—For the purposes of this Act; a suit in which a decree for a sum of money is prayed for shall be deemed to be a suit for the recovery of a debt notwithstanding that other reliefs are prayed for in such suit and a decree shall be deemed to be a decree for payment of money notwithstanding that other reliefs are granted in such decree :

Provided that a suit for possession of land shall not be deemed to be a suit for recovery of a debt by reason merely of mesne profits being also prayed for in such suit.

(2) Where a creditor files a suit for recovery of a debt during the period specified in sub-section (1) or after the agriculturist has paid or deposited into Court the sums and instalments specified in sub-section (1) of section 4 and during the period when he is so entitled to pay, the Court shall in decreeing the suit direct the plaintiff to bear his own costs and pay the costs of the defendants who is an agriculturist :

Provided that nothing contained in this sub-section shall be a bar to the Court passing any order as to costs as between the plaintiff and other defendants who are not agriculturists.

4. Payment of debt in instalments.—(1) Notwithstanding any law, custom, contract, or decree of Court to the contrary, an agriculturist shall be entitled to pay within four months of the commencement of this Act the interest due on any debt due by him up to the commencement of this Act and one-eighth of the principal outstanding or one-fourth of the total amount outstanding, whichever is less and the balance of the debt in three equal annual instalments on or before the 1st July of every year with the interest due on such instalment up to that date.

Explanation.—In the case of a decree, the amount decreed shall be deemed to be the principal.

(2) Where in any suit for the recovery of a debt or application for execution of a decree for payment of money the debtor claims to be an agriculturist entitled to pay the debt in instalments, the Court shall, if the debtor is an agriculturist, pass a decree or make an order for payment of the amount found due from the agriculturist inclusive of the costs of the suit as may be ordered by the Court in three equal annual instalments :

Provided that nothing contained in this Act shall bar the Court from passing a decree or making an order in an application for execution of the decree under such terms and conditions as may be more favourable to the debtor than those provided for in this sub-section either of its own motion upon a consideration of all the circumstances of the case or upon an agreement between the parties.

(3) Where in any suit to recover a debt or in any application for the execution of a decree for payment of money the debt is payable by an agriculturist jointly or jointly and severally with a non-agriculturist, the Court shall pass a decree or make an order for the payment of the debt found due from the agriculturist as provided in sub-section (2) as against the agriculturist and make such provision in the decree or order against the non-agriculturist as the circumstances of the case may warrant.

5. Deposit of debt into Court.—(1) An agriculturist may deposit any of the instalments as provided in section 4 into the Court having jurisdiction to entertain a suit for recovery of the debt or into the Court which passed the decree, as the case may be, and apply to the Court to record part-satisfaction of the debt.

(2) Where any such application is made, the Court shall pass an order recording part-satisfaction of the debt if the amount deposited is the correct amount.

(3) The Court shall dismiss the application—

(a) if the applicant is not an agriculturist, or

(b) if the liability is not a debt, or

(c) if the amount deposited is insufficient and the applicant on being required by the Court to deposit the deficit amount within a time fixed by the Court, fails to do so.

(4) The procedure laid down in the Code of Civil Procedure, 1908 (Central Act V of 1908), for the trial of suits shall, as far as may be, apply to the applications under this section.

6. Appeals.—An appeal shall lie from an order passed by a Court under section 5, as if such an order relates to the execution, discharge or satisfaction of a decree within the meaning of section 47 of the Code of Civil Procedure, 1908 (Central Act V of 1908).

7. Presumption as to transfer of immovable property of the debtor.—(1) Every transfer of immovable property made by a debtor entitled to the benefits of this Act after the 1st October 1953 and before the complete discharge of his debt, shall, in any suit or other proceeding with respect to such transfer, be presumed, until the contrary is proved, to have been made with intent to defeat or delay the creditors of the transferor.

(2) Where a debtor entitled to the benefits of this Act has allowed, in collusion with another, his immovable property to be sold after the 1st October 1953 through Court with a view to defeat or delay his creditors, the sale shall be voidable at the option of any creditor so defeated or delayed.

8. Exclusion of time for limitation.—In computing the period of limitation for a suit for recovery of a debt or an application for the execution of a decree for payment of money, the time during which the institution of the suit or the making of the application was barred under section 3 shall be excluded.

9. Effect of payment or deposit under section 4 or section 5.—Where a debt is payable by an agriculturist either by himself or jointly or jointly and severally with a non-agriculturist and where the agriculturist makes payment or deposits amount towards that debt as provided for in section 4 or section 5, a fresh period of limitation shall be computed from the time when the payment or deposit was made both against the agriculturist and non-agriculturist.

10. Power to make rules.—(1) The State Government may make rules for carrying out the purposes of this Act.

(2) The rules so made shall be placed on the table of each House of the Legislature as soon as they are published and shall be subject to such modification whether by way of repeal or amendment as the Legislature may make during the session in which they are so laid.

R. V. KRISHNA AYYAR,
Secretary to the State Legislature.

GOVERNMENT ESTATE, MOUNT ROAD, MADRAS,
19th February 1955.

PROCEEDINGS OF THE JOINT SELECT COMMITTEE
ON THE MADRAS INDEBTED AGRICULTURISTS
(REPAYMENT OF DEBTS) BILL, 1955.

(As approved by the Chairman.)

Friday, the 18th February 1955.

The Joint Select Committee appointed to consider the Madras Indebted Agriculturists (Repayment of Debts) Bill, 1955, met in the Committee Room in the old Legislators' Hostel, Government Estate, Mount Road, Madras, at 2-30 p.m. on Friday, the 18th February 1955. The following members were present :—

- 1 The Hon. Sri M. A. MANICKAVELU NAICKER.
- 2 The Hon. Sri C. SUBRAMANIAM.
- 3 Sri K. RAJARAM.
- 4 Sri M. MUNI REDDI.
- 5 Sri N. MOUNAGURUSWAMI NAIDU.
- 6 Sri A. APPU.
- 7 Sri V. R. NAGARAJAN.
- 8 Sri V. C. CHINNASWAMY.
- 9 Sri T. C. NARAYANAN NAMBIAR.
- 10 Sri C. KANDASWAMY.
- 11 Sri K. M. SEETHI SAHIB.
- 12 Sri M. P. SUBRAMANIAM.
- 13 Sri P. KANDASWAMY GOUNDER.
- 14 Sri M. MANICKASUNDARAM.
- 15 Dr. K. B. MENON.
- 16 The Hon. Sri M. BHAKTAVATSALAM.
- 17 Sri P. P. UMMER KOYA.
- 18 Srimathi JOTHI VENKATACHELLUM.
- 19 Sri S. P. SIVASUBRAMANIA NADAR.
- 20 Sri T. PURUSHOTHAMA MUDALIAR.
- 21 Sri A. GAJAPATHI NAYAGAR.
- 22 Sri K. BALASUBRAMANIA IYER.
- 23 Sri V. V. RAMASWAMY.

The Secretary to the State Legislature and the Secretary to Government, Law Department, were also present.

The Hon. Sri M. A. Manickavelu Naicker, Minister-in-charge of Revenue was elected as the Chairman of the Joint Select Committee.

The Secretary to the State Legislature brought to the notice of the Committee that letters had been received from certain persons offering to give oral evidence in respect of the Bill. It was resolved that no oral evidence be taken.

Sri T. C. Narayanan Nambiar proposed that the consideration of the Bill be postponed to enable public opinion to express itself on its provisions and that in the meantime the Moratorium Act (Act V of 1954) be extended for two months. This was negatived, only five members voting for it.

The Committee then resolved to take up the consideration of the clauses of the Bill.

Clause 2.

Sub-clause (a).—Sri K. Balasubramania Iyer pointed that the word “ agriculturist ” as defined would include a simple mortgagee and that he should be excluded. It was resolved that the words “ other than interest as a simple mortgagee ” be inserted after the word “ interest ”.

Item (i) of sub-clause (a).—Sri M. Manickasundaram proposed that the words “ one hundred and fifty rupees ” should be replaced by the words “ two hundred and fifty rupees ”. This was negatived, only three members voting for the motion.

Items (i), (ii), (iii) and (iv) of sub-clause (a).—For the figures “ 1950–51 ”, it was resolved to substitute the figures “ 1952–53 ”.

Item (iii) of sub-clause (a).—It was resolved that exemption should be made in favour of buildings in which a person resides. It was also resolved that the criterion should not be the payment of house tax exceeding fifty rupees for any half-year but the annual rental value of the property which should not exceed Rs. 600 per annum. The following item was therefore substituted for item (iii):—

“ Any person assessed to property or house tax on an annual rental value exceeding rupees six hundred for any half-year after the year 1952–53 in respect of buildings (other than a building in which he lives) or lands other than agricultural lands under any law governing municipal or local bodies in India.”

Sub-clause (a) as amended was approved.

Sub-clause (b).—In this clause, item (vi) was omitted by a majority, two voting against it.

Sri S. P. Sivasubramania Nadar suggested that exemption should be made in respect of purchase money payable in respect of lands sold by a person who has parted with possession of the property. The suggestion was negatived.

Sri V. R. Nagarajan wanted to insert as item (vii) the following item: “ Any liability incurred, or arising under any Chit Fund Scheme conducted by Chit Funds registered under the Indian

Companies Act." This was agreed to with the omission of the words "conducted by Chit Funds registered under the Indian Companies Act".

Sub-clause (b) was approved.

Clause 3.

There was some discussion over the word "or" in line 5 whether it should be substituted by the word "and". This was left over.

A question was raised whether the notice required under sub-clause (1) could be given even on the last day of the period of three months referred to in it or whether there should be any particular period of notice. Mr. T. C. Narayanan Nambiar moved that for the words "three months" the words "one year" or in the alternative the words "after December 1955" be substituted.

Sri C. Kandaswami moved that for the words "three months, etc.", the words "the 1st March 1956" be substituted. Both these proposals were negatived.

Finally after discussion, it was resolved that for the words "three months" the words "four months" be substituted and that all references to demand in writing by registered post be omitted.

Sri Mounaguruswami Naidu pointed out that a provision should be made for claims for money under partition suits and for mesne profits in respect of suits for possession of land, and that a provision like the proviso to section 3 of the Moratorium Act should be made. The Hon. the Minister for Finance suggested that this will be considered and, if necessary, a suitable provision will be brought up later on.

Sri Nagarajan raised the question that a special provision should be made for the revival of cases stayed under the previous Act. It was resolved that no provision was necessary.

Clause 4.

Sri V. R. Nagarajan moved that after the words "one eighth of the principal outstanding", the words "or the decreed amount" be inserted. After discussion, it was resolved that a provision should be made to the effect that in the case of a decree debt the principal should mean the amount decreed with costs and would not include the interest payable after the date of the decree.

Sri T. C. Narayanan Nambiar moved that for the expression "three equal instalments", the expression "eight equal instalments" be substituted. And, he also suggested that the debtor might be allowed to pay the instalments in kind. These were not accepted.

Sri Mounaguruswami Naidu pointed out that some provision should be made for cases where honest debtors have been made to wait under the Bill while a creditor favoured by the debtor brings up the property to sale in execution of the amount due to him. The Hon. the Minister for Finance suggested that this will be considered and that, if necessary, a suitable provision will be made.

Sri M. P. Subramaniam suggested that the clause be so amended that only the interest due be made payable at first and that the principal amount should be payable in eight or ten annual instalments. Sri T. C. Narayanan Nambiar also supported this view. This was under discussion when the Select Committee adjourned to 2 p.m. the next day.

Saturday, the 19th February 1955.

The Joint Select Committee appointed to consider the Madras Indebted Agriculturists (Repayment of Debts) Bill, 1955, met in the Committee Room in the old Legislators' Hostel, Government Estate, Mount Road, Madras, at 2 p.m. on Saturday, the 19th February 1955. All the members except Sri K. Ishwara were present.

The Secretary to the State Legislature and the Secretary to Government, Law Department, were also present.

The Committee took up clause 10 first and decided that the rules made under that clause should be laid on the table of both Houses. They may be liable to such modifications either by way of repeal or amendment as the Legislature might make during the session in which they were so laid. Sub-clause (ii) was accordingly added to clause 10.

Discussion on clause 4 was then resumed. The Committee decided that no provision need be made for the stay of sale of the debtor's property for one creditor's debt while the debts or instalment of debts of other creditors had been stayed by the operation of clause 4.

After discussion, the Committee resolved that the first instalment of debt payable by the creditor might be *either* the interest due on it by him and one-eighth of the principal amount outstanding *or* one-fourth of the total amount outstanding whichever was less. Necessary words were added to achieve this object.

Sri M. P. Subramaniam pressed that the amount should be payable in five instalments instead of three and this was negatived by a majority.

A question was raised whether when one of the instalments was not paid, the whole of the debt would become payable. The Finance Minister pointed out that the failure to pay any one instalment would not have the effect of making the whole amount payable on such default.

Clauses 5 to 9 were all passed.

The Committee authorized the Chairman to sign the Report. It also decided that dissenting minutes, if any, should be sent so as to be received in the Assembly Office before 4 p.m. on Sunday, the 20th February 1955.

The Committee thought that the amendments made by it were not so important as to necessitate the republication of the Bill.

The Committee then dispersed.

R. V. KRISHNA AYYAR,
Secretary to the State Legislature.

GOVERNMENT ESTATE, MOUNT ROAD, MADRAS,
19th February 1955.

THE MADRAS INDEBTED AGRICULTURISTS
(REPAYMENT OF DEBTS) BILL, 1955.

REPORT OF THE JOINT SELECT COMMITTEE.

MINUTES OF DISSENT.



The calamitous consequences of the Moratorium Act have been to some extent minimised by the present Bill. But still there are some difficulties for which provision has to be made in the Bill.

Owing to the present definition of agriculturists, there may be claims, which can now be enforced in a court of law and which are not governed by the present Bill. There may be some claims, which may in the usual course be barred during the period covered by the Moratorium Ordinance and the Moratorium Act. Such claims have to be immediately enforced on the 1st March 1955, on which date the Act will come into force. There will be hardly time for the creditors to prepare plaint and pay court-fee and take other legal steps for filing suits into court.

Clause 8 excludes in the time for computing the period of limitation for a suit or the making of an application for the execution of the decree, the time during which the institution of the suit or the making of the application was barred under section 3. Similarly a provision may be made for exclusion of the time till 1st April 1955, for claims which would have been barred during the period of the application of the Moratorium Ordinance and the Moratorium Act.

So far as debts which are contracted by the agriculturists after the 1st October 1953 are concerned, the present Bill will not apply. If then, in the execution of any decree obtained in a suit on that debt the property of the agriculturist debtor is sold through the court, the Bill does not provide any remedy for creditors, whose debts are prior to 1st October 1953. They should be enabled to get rateable distribution of the assets realized by sale through court, notwithstanding that they have not obtained the

decrees, on account of the application of this Act to them. Hence I suggest that after clause 7, a new clause may be added as follows :—

“ Where in execution of a decree against an agriculturist debtor his properties have been sold every other creditor of his shall on application within 30 days of the sale be entitled to rateable distribution of the amount realised by such sale less the costs of execution and expenses of the sale, in respect of the amount of debt remaining due to him whether it has matured into a decree or otherwise, notwithstanding any other law to the contrary.”

I feel that there should be also another provision in clause 5, providing that if the applicant fails to pay any one instalment as directed, the creditor shall be at liberty to take immediate steps to recover the entire balance of the debt due, irrespective of the future instalments noted in the order. This, I think, is necessary, as otherwise, debtors who make default in payment will cause great hardship to the creditor by preventing him from getting the fruits of his decree for the whole period of three years and there will be no remedy for the creditor. A debtor who has paid one-eighth of the debt can keep at bay the creditor for the full period of three years in defaulting to pay subsequent instalments.

MADRAS,
20th February 1955.

K. BALASUBRAMANIA AIYAR.

II

Though it is rightly said in the statement of objects and reasons of the proposed Bill that the Bill is intended to assist the poor agricultural debtors to liquidate their debts gradually, in our opinion the provisions of the Bill do not really carry out the avowed object. Because for any effective gradual liquidation of debts, the provisions of the Bill should be such as to enable the debtors to repay from the income they get from their lands, in small and easy instalments. This must be so especially in the present time when the agriculturists are facing steep fall in prices and uncertain market. The unfavourable situation a debtor is placed in,

in a period of falling prices has not been well realised. The provision made in the Bill for payment of one-eighth of the principal and the interest or one-fourth of the total amount outstanding, within four months from the commencement of this Act and payment of the balance of debt in three equal annual instalments, would in our opinion force the debtors to enter into fresh debts on very harsh terms or sell his lands at a very cheap rate to a person who is reluctant to pay a reasonable price on account of the falling prices of agricultural commodities and the anticipated land reforms in the State. The Bill as it comes out of the Select Committee will only lead to the complete ruination of many in the agricultural sector and we fear they are simply driven from the devil to the deep sea.

So we suggest the following :—

In section 2, sub-section (iii) the limit of annual rental value of houses should be raised from Rs. 600 to Rs. 1,200.

Section 4 (1) should be amended so that the agriculturists should be entitled to pay within four months of the commencement of this Act the interest due on any debt up to the commencement of this Act or one-sixth of the total amount outstanding on that date, whichever is less and the balance of debt in five equal annual instalments with the interest due on such instalment up to that date.

MADRAS,
20th February 1955.

M. P. SUBRAMANIAM.
P. KANDASWAMY GOWNDAR.

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I wish to record the following views differing from the majority views of the Joint Select Committee :—

(1) In the definition of an agriculturist, the land revenue limit fixed in sub-clause (a) of clause 2 should be raised to Rs. 250. In the dry areas even though an agriculturist may be paying a land revenue above Rs. 150 has capacity to repay debts, is very limited in view of the steep fall in prices and uncertain monsoons, while the cost of cultivation continues to be the same. Therefore, I suggest that the limit may be raised to Rs. 250.

(2) An agriculturist otherwise coming within the scope of this Bill, is denied the benefit if he owns a house in a Municipal or Panchayat area and if the tax is above Rs. 50 for a half year. This is quite unreasonable, since even the possession of a house could reach this limit. Unless the agriculturists owning houses, which yield extra income, this provision would mean a great hardship. I, therefore, propose that the limit of house tax be raised to Rs. 100 instead of Rs. 50.

(3) Regarding instalments for repayment of debts, the Bill proposes complicated method of fixing instalments. Each instalment becomes very high defeating the very purpose of the Bill for which this Bill is brought. If repayment formula is to be fixed with a view to giving relief to the agriculturists, then I suggest that the interest and principal as on date should be divided into six equal annual instalments. The first instalment to be paid within four months of this Bill becoming of an Act. The subsequent five instalments should bear interest for corresponding period on the balance of the principal above.

MADRAS,
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M. MANICKASUNDARAM.

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The deliberations of the Select Committee have shown to us that the Government does not at all realise the acuteness of the problem of the peasantry which affects the entire economy of the State. The very provisions of the Bill and the attitude of the Government side in refusing to make any changes in the Bill at the Select Committee shows that they are not particular to find a feasible and practicable solution to the rural indebtedness of the peasantry. It is a well known fact that during war time the price of agricultural commodities rose up to the maximum level. In spite of this fact the burden of debt of the poor peasants and agricultural labourers has risen even in that period according to the facts furnished by no less a person than Dr. B. V. N. Naidu. This only shows the parasitic nature of the debt load and the incapacity to repay by the peasantry. Now the position is changing from bad

to worse. Prices of agricultural commodities have already fallen steeply by 50 to 75 per cent. Calculating at the existing price level, a peasant who owes a debt of Rs. 100 during war time, now is at a loss to pay the same amount by selling two to three times the quantity of his products than at war time. There is also another factor which nobody can deny. After Agriculturists Relief Act of 1939, money-lenders as a class with few individual exceptions has been running the business in a very dishonest way. Most of the pro-notes and other documents relating to debt are in one way or other bogus and fraud. This is general in the case of poor illiterate peasants of the country side. The money-lenders and usurers through these documents manipulate in such a way that the actual rate of interest they exact is even up to 50 per cent. Some money-lenders even go to the extent of getting the sale deed of his landed property on the oral understanding that when the peasant repay his debt with abnormal illegal interest the land will be returned. Then again a major portion of the debt of the toiling peasantry is because of the merciless rack-renting of the landlords. Here it is necessary to quote few among many instances to show how the debt has been accumulated to large proportions due to rack-renting. In the Rent Courts constituted under the Malabar Tenancy Act the following decrees have been made by the Court:—

In Tellicherry Court the janmi claimed for 45 paras of paddy as per his contract and the decree was for 15 paras only. In the same Court another janmi claimed for Rs. 45 and one bottle of ghee but the decree was given for 15 coconuts alone.

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The above instances are sufficient to show how through rack-renting such heavy debt load has accumulated. Therefore, unless a definite provision for scaling down of debts is included, this legislation is going to be mere printed paper in the statute book. The present position of the peasantry and tenantry is that every year

they are surrendering the whole yield at the feet of the money-lender and landlord and again going for fresh debts to begin the next year. This rotation goes on sapping the very vitality of the rural life.

The moratorium now in force for the first time, has created an uneasy feeling in the minds of the usurious money-lenders. They are awaiting the opportunity to pounce upon the poor debtors to grasp as much as possible from what is due to him according to the document. As soon as this Bill is passed, the Courts will be flooded by cases demanding one-fourth of the entire amount. Under existing conditions we are certain the peasantry as a whole is not in a position to repay the amount. That means they will be forced to part with their remaining price of land and other available-movable properties. The position is going to be worse more than what it was before the moratorium.

Even regarding the time for paying the first instalment, the Government side was very stringent in limiting the time only to four months, i.e., June end, when the peasantry will be with empty hands exploring possibilities to get fresh loans somewhere to begin the agricultural operations. The provision to repay the debt in four annual instalments is no concession at all. The accumulated debt is estimated to be not less than 150 crores and the yearly repayment according to this Bill will be not less than 40 crores. This we think is neither reasonable nor feasible even in cases of those who are in a position to repay in instalments. Our insistence that it should be at least eight annual instalments or at least six then, was not heeded to. The very reasonable demand that the discretion should be given to the peasant to pay either in kind or in cash was rejected. It is shocking to note that even the normal procedure of giving notice before filing a suit has been abandoned.

The three Honourable Ministers who have participated in the Select Committee were not in a mood even to consider all these important factors regarding the debt problem. We suggest that at least on the floor of the Assembly the following changes should be made :—

- (1) The provision for a reasonable scaling down of debts;
- (2) A machinery to find out the actual debt;

(3) Eight annual instalments instead of four;

(4) Discretion to the peasant to repay the debt either in kind or cash.

We strongly feel that the abovementioned suggestions should find a place in this Bill if it is meant to give relief to the indebted agriculturists.

If the Bill is passed as it is, it will be a boon to the money-lenders and landlords and hell for the peasantry.

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Secretary to the State Legislature.

THE MADRAS INDEBTED AGRICULTURISTS
(REPAYMENT OF DEBTS) BILL, 1955.

REPORT OF THE JOINT SELECT COMMITTEE.

MINUTES OF DISSENT.



The calamitous consequences of the Moratorium Act have been to some extent minimised by the present Bill. But still there are some difficulties for which provision has to be made in the Bill.

Owing to the present definition of agriculturists, there may be claims, which can now be enforced in a court of law and which are not governed by the present Bill. There may be some claims, which may in the usual course be barred during the period covered by the Moratorium Ordinance and the Moratorium Act. Such claims have to be immediately enforced on the 1st March 1955, on which date the Act will come into force. There will be hardly time for the creditors to prepare plaint and pay court-fee and take other legal steps for filing suits into court.

Clause 8 excludes in the time for computing the period of limitation for a suit or the making of an application for the execution of the decree, the time during which the institution of the suit or the making of the application was barred under section 3. Similarly a provision may be made for exclusion of the time till 1st April 1955, for claims which would have been barred during the period of the application of the Moratorium Ordinance and the Moratorium Act.

So far as debts which are contracted by the agriculturists after the 1st October 1953 are concerned, the present Bill will not apply. If then, in the execution of any decree obtained in a suit on that debt the property of the agriculturist debtor is sold through the court, the Bill does not provide any remedy for creditors, whose debts are prior to 1st October 1953. They should be enabled to get rateable distribution of the assets realized by sale through court, notwithstanding that they have not obtained the

decrees, on account of the application of this Act to them. Hence I suggest that after clause 7, a new clause may be added as follows :—

“ Where in execution of a decree against an agriculturist debtor his properties have been sold every other creditor of his shall on application within 30 days of the sale be entitled to rateable distribution of the amount realised by such sale less the costs of execution and expenses of the sale, in respect of the amount of debt remaining due to him whether it has matured into a decree or otherwise, notwithstanding any other law to the contrary.”

I feel that there should be also another provision in clause 5, providing that if the applicant fails to pay any one instalment as directed, the creditor shall be at liberty to take immediate steps to recover the entire balance of the debt due, irrespective of the future instalments noted in the order. This, I think, is necessary, as otherwise, debtors who make default in payment will cause great hardship to the creditor by preventing him from getting the fruits of his decree for the whole period of three years and there will be no remedy for the creditor. A debtor who has paid one-eighth of the debt can keep at bay the creditor for the full period of three years in defaulting to pay subsequent instalments.

MADRAS,
20th February 1955.

K. BALASUBRAMANIA AIYAR.

II

Though it is rightly said in the statement of objects and reasons of the proposed Bill that the Bill is intended to assist the poor agricultural debtors to liquidate their debts gradually, in our opinion the provisions of the Bill do not really carry out the avowed object. Because for any effective gradual liquidation of debts, the provisions of the Bill should be such as to enable the debtors to repay from the income they get from their lands, in small and easy instalments. This must be so especially in the present time when the agriculturists are facing steep fall in prices and uncertain market. The unfavourable situation a debtor is placed in,

in a period of falling prices has not been well realised. The provision made in the Bill for payment of one-eighth of the principal and the interest or one-fourth of the total amount outstanding, within four months from the commencement of this Act and payment of the balance of debt in three equal annual instalments, would in our opinion force the debtors to enter into fresh debts on very harsh terms or sell his lands at a very cheap rate to a person who is reluctant to pay a reasonable price on account of the falling prices of agricultural commodities and the anticipated land reforms in the State. The Bill as it comes out of the Select Committee will only lead to the complete ruination of many in the agricultural sector and we fear they are simply driven from the devil to the deep sea.

So we suggest the following :—

In section 2, sub-section (iii) the limit of annual rental value of houses should be raised from Rs. 600 to Rs. 1,200.

Section 4 (1) should be amended so that the agriculturists should be entitled to pay within four months of the commencement of this Act the interest due on any debt up to the commencement of this Act or one-sixth of the total amount outstanding on that date, whichever is less and the balance of debt in five equal annual instalments with the interest due on such instalment up to that date.

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